

TITLE PAGE

**APPRAISING THE PROVISIONS OF THE NIGERIAN CORRECTIONAL SERVICES
ACT IN THE LIGHT OF INTERNATIONAL INSTRUMENTS ON THE
RIGHTS OF PRISONERS.**

BY

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GOU/U21/LAW/413

**A LONG ESSAY SUBMITTED TO THE FACULTY OF LAW, GODFREY OKOYE
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BACHELOR OF LAW (LL.B) DEGREE OF GODFREY OKOYE UNIVERSITY**

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DECLARATION

I, OBIDIGBO MMESOMA FAVOUR, with registration number U21/LAW/413, hereby affirms that this work was duly and diligently carried out by me in the Faculty of Law, Godfrey Okoye University, Enugu.

The primary and secondary sources used to carry out this legal research, are acknowledged appropriately and referenced herein, within this project. This work is an original and has not been submitted in part or in full for the award of any degree in this or any other Faculty of Law within and outside Nigeria.

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CERTIFICATION

I, OBIDIGBO MMESOMA FAVOUR with registration number U21/LAW/413, hereby certify that this project research done by me, with the direct and diligent supervision of, has been approved by the administrative and academic staff of the Faculty of Law, Godfrey Okoye University, Enugu. To the extent that the requirements for Bachelor's degree in law (LL. B) are partially met.

Aside from the sources cited and recognized in this search project, this research work is an original work and has not been presented in part or in full, for any degree of this University or any other University.

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DEDICATION

I give all glory to God for the successful completion of this project. His boundless wisdom, talents, and guidance have sustained me through the challenges and triumphs of my academic journey.

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Firstly, all honour and glory be to God Almighty, who without His grace and guidance, I would not have been able to complete and publish this work. Thank you, Lord, for making this possible.

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LIST OF ABBREVIATIONS

ACHPR – African Charter on Human and Peoples’ Rights

ACJA – Administration of Criminal Justice Act

ATI – Awaiting Trial Inmate

AU – African Union

CBT – Cognitive Behavioural Therapy

CSOs – Civil Society Organisations

EFCC – Economic and Financial Crimes Commission

FCT – Federal Capital Territory

ICCPR – International Covenant on Civil and Political Rights

KPI – Key Performance Indicator

Mandela Rules – United Nations Standard Minimum Rules for the Treatment of Prisoners

NBER – National Bureau of Economic Research

NCS – Nigerian Correctional Service

NCSA – Nigerian Correctional Service Act, 2019

NCoS – Nigerian Correctional Service

NHRC – National Human Rights Commission

NPS – Nigerian Prison Service

OAU – Organisation of African Unity

SOP – Standard Operating Procedure

UDHR – Universal Declaration of Human Rights

UN – United Nations

UNODC – United Nations Office on Drugs and Crime

ABSTRACT

The Nigerian Correctional Services Act, is a legislative intervention in Nigeria's criminal justice administration. The Act repealed the Prisons Act of 1972, marking a transition from a colonial law which emphasizes retribution to a law which emphasizes reformation and rehabilitation, humane treatment of offenders, and successful integration of offenders into the society after their release from prison. The main thrust of this research is to evaluate the provisions of the Act on the rights of prisoners and compare them with the relevant international human rights instruments which Nigeria is a party to.

The research also reveals the reality on ground as regards the implementation of the provisions of the Act. The research reveals that whereas the Act has complied with international instruments in terms of provisions, the implementation of these provisions has fallen short of the minimum standards. According to the research, the Nigerian prison currently operates at the population of between 136 and 200% of its capacity, with an awaiting trial population of 66% as at 2025. The prison population faces serious health challenges, including Tuberculosis, which is twenty times more prevalent in Nigeria's prisons than in the general population. Corruption in the prison system including bribery and diversion of funds estimated at the cost of NGN 5 billion per year, high recidivism rate.

The study reveals that though the Nigerian Correctional Services Act, has achieved high level of compliance with international human rights instruments, it has however achieved low level of implementation. The research concludes that even though the Nigerian Correctional Services Act has complied with Nigeria's international obligations, the implementation of the Act is a necessary tool towards ensuring the realization of the rights of prisoners as enshrined in the Act. Political will, financial commitment, structural reform are needed if the Act will achieve its purpose. Effective implementation of the Act will lead to reduction of the rate of recidivism to about 43%, attainment of the Sustainable Development Goal 16, and will transform the Nigerian prison from a 'school for crime' to a correctional facility.

CHAPTER 1

General Introduction

1.1 Background of the Study

The Nigerian Correctional Services Act (NCSA) marks a paradigm shift in Nigeria's history of incarceration and offender management, from a complete retributive model to one that is rehabilitative, reformatory, and aimed at reintegration. The Act, which was assented to on August 1, repealed the Prisons Act and created the Nigerian Correctional Service (NCS) as a single federal agency responsible and in control for the custody, reformation and rehabilitation of offenders/prisoners. The underpinning philosophy of the Act, as captured in the title, is the need to establish a framework that upholds the dignity of all persons and to align the administration of criminal justice with obtainable international best practices.

The British colonial authorities who introduced prisons in Nigeria in 1861 when the first conventional prison was constructed in Lagos as part of the broader colonial project of establishing law and order in the new colonial acquisition. Prior to the advent of British colonialism, the traditional Nigerian societies employed a variety of penal sanctions including communal sanction, banishment, fines, and restorative justice, which focused on reparation and reintegration rather than separation. The British colonial regime introduced a retributive penal regime inspired by the utilitarian philosophies of Jeremy Bentham and the penitentiary developments in Europe in which the prison served as an institution of confinement, punishment and labor.

This background sets the stage for a critical analysis of the NCSA provisions such as the right to legal aid (Section 7), the prohibition of solitary confinement for more than 15 days (Section 35), and mandatory health screening (Section 25) within the context of international standards. Thus, by tracing the historical trajectory, global trends, and local challenges, this study will emphasize the potential of the NCSA to bring about transformative justice, while also highlighting the need for effective implementation if the dignity of prisoners and successful reintegration is to be realized.

1.2 Statement of the Problem

The Nigeria Prisons Service still faces significant challenges in realizing its reformatory objectives and protecting the human rights of prisoners. Among others, one of the challenges confronting the Nigeria Prisons Service is overcrowding. While Prisons are operating at 200-300% capacity (as at 2025), the Kirikiri Maximum Security Prison in Lagos is designed for 1, 056 inmates, but it holds more than 3, 000 prisoners and it is quite appalling which motivates me to conduct this research.

The effects of this congestion are poor living conditions, inadequate space, a shortage of beddings and other essentials, poor hygiene, etc. Furthermore, awaiting-trial persons constitute about 70-75% of the total prison population. Although the waiting

period for the commencement of criminal trials can vary based on the nature of the offense, in practice, it ranges from a few months to several years. As such, these persons stay longer in prison and sometimes face greater health risks compared to convicts.

Ultimately, though the NCSA, is not out rightly inadequate to address the challenges facing Nigeria Prisons, the level of implementation of its provisions remains a challenge. “For instance, while Section 14 provides for a minimum space of 4 square meters for each inmate, the current space is below this minimum. In other words, there is a gap between the law and practice.

In this regard, while the provisions of Sections 25, 29, 48-52 are adequate for health care delivery and rehabilitation, the level of implementation is very poor. In the same vein, though there are provisions for legal representation for inmates, in practice, many inmates still face challenges accessing justice. Similarly, while the law provides for the establishment of a Parole Board, the level of implementation remains a challenge. It is against this backdrop that this research seeks to examine the extent to which the NCSA, has embedded international standards. The study will further propose strategies for addressing the challenges.

1.3 Research Questions

The research will be guided by four research questions. While the first two questions are designed to examine the provisions of the Nigerian Correctional service Act, concerning prisoners’ rights and international standards, the third question will examine the challenges to the realization of prisoners’ rights and international standards. The research questions are;

1. What are the key provisions of the Nigerian Correctional Services Act regarding prisoners’ rights?
2. Are these provisions in line with international standards, in particular the Nelson Mandela Rules and the African Charter on Human and Peoples’ Rights?
3. What are the institutional and systemic barriers to the operationalization of the NCSA?
4. What will be done to align Nigeria’s correctional laws with international best practice for better protection of prisoners’ rights?

1.4 Aim and Objectives

The aim of this research is to critically evaluate the legal framework of the Nigerian Correctional Services Act in the context of International treaties on rights of prisoners, this also aims at identifying the level of compliance, the lacuna and areas of possible reforms, with a view to a balanced and well grounded doctrinal and applied

research approach that would underpin corrections that are grounded in human rights principles.

The objectives of the research include:

1. To evaluate the evolution of the Nigerian Correctional Services Act, the provisions of the Act relating to prisoners' rights.
2. Analyse international tools such as the Nelson Mandela Rules and the African Charter to set standards for the rights of prisoners.
3. Compare the NCSA with international models, paying particular attention to its practices concerning the treatment of offenders, their rehabilitation and re-integration into society.
4. To examine the problems of implementing the NCSA and to suggest ways of bringing Nigeria's correctional services into conformity with international standards.

These objectives will guide the study to achieve the stated aim in a systematic and policy oriented manner.

1.5 Significance of the study

This research is of significance to the academia, policy and practice in Nigeria. The academia; the study fills the lacuna in the literature in the post Act regime especially on Nigerian Correctional service Act (NCSA), as there is a plethora of literature in pre-Act criticism. The study will be useful for policy formulation as it provides empirical diagnosis on the implementation of the NCSA, for example, the rate of overcrowding in Nigeria Prisons, and makes suggestions for amendments on NCSA and ACJA for speedy trials.

The study draws attention to Nigeria's commitment under treaties and the need to comply which will aid at the UN Human Rights Council for better monitoring. For practice, it provides recommendations to various stakeholders; the NCS for drafting of the SOP, the CSOs for devising of a checklist for monitoring, donors such as European Union Justice Programs for allocation of funds, by making the law more prisoner friendly, it addresses the principles of social justice, reduces the rate of recidivism and ultimately contributes to safer communities.

1.6 Scope and limitations of the Study

This study focuses on some provisions of the Nigerian Correctional service Act (NCSA) that address the rights of adult prisoners; conditions of detention, health and well-being, rehabilitation and non-custodial measures in comparison to the provisions of the Mandela Rules, ACHPR and the Kampala Declaration.

The study is further narrowed to three states in Nigeria viz Lagos, Abuja and Enugu in respect to their urban and rural prisons. The provisions of the Child Rights Act 2003,

that govern the administration of juvenile justice system and the military detention system are excluded.

1.7 Research Methodology

This study adopts a hybrid approach of doctrinal comparative methodology as the research design. The doctrinal method involves a content analysis of primary sources of law such as the Nigerian Correctional service Act (NCSA), decided cases (Re: Awaiting Trial Matters, 2021) and international treaties. The source of the primary data is obtained from Nigerian Law Reports and official websites. The comparative method involves the use of a rubric to compare the provisions of the NCSA with other international standards following the approach of Colin Conyngham Turpin.

1.8 Literature Review

Existing literature on the Nigeria Prison System (NPS) or Nigerian Correctional Services (NCS) following the Act, is replete with empirical evidence and theoretical assumptions of the history and development of the NPS from colonialism to the NCSA, the challenges of the Nigeria Prisons Service (NPS) and prospects for reforms, particularly under the new Act. The literature generally, from the source of available literatures, is empirical, but also contain some level of theoretical assumptions, conceptual framework and principles, which will be reviewed accordingly. Peer review journals, books, articles, reports and legislations have been consulted and read to provide an overview of the development and challenges of the NPS, which will form the basis of this study. There is therefore, a dearth of theoretical literature on Nigeria Prisons System (NPS) and perhaps the new Nigerian Correctional Services (NCS), with most of the available literatures in the form of reports, articles, books, peer review journals, based on empirical evidence and assumptions, which will be discussed in the next section.

In most of the literatures, the British colonial history of Nigeria has been extensively discussed to explain the history and development of the NPS. For instance, to serve the economic interests of the British colonial masters in Nigeria, the British colonialist established the Lagos prison in 1861, and other prisons in Calabar, Enugu, Ibadan, Port Harcourt and Kaduna, which were used as forced labour camps for the construction of rail lines and agricultural plantations. Thus, the prisons in Nigeria, during the colonial period, were used as an institution of exploitation to serve the interests of the British colonial masters, and not as a correctional or reformatory institution to transform offenders. Most of the literatures available have therefore, extensively discussed the history and development of the NPS, and how it was used to serve the economic interests of the British colonialist in Nigeria. The history and development of the NPS, has been extensively discussed in the literatures, and it is clear that the prisons in Nigeria, was used as an instrument of oppression and exploitation by the British colonialist, to serve their economic interests in Nigeria.

However, it is clear from the literatures that the history and development of the NPS, is well grounded in the colonial history of Nigeria, particularly the British colonialist. The literatures have also discussed the post-colonial history of Nigeria, in relation to the challenges facing the NPS, particularly the socio-political instability in Nigeria, between 1967 and 1970, due to the civil war and military regimes that emerged after the civil war. Most of the literatures available, have also discussed the challenges facing the NPS, particularly overcrowding, poor sanitation, inadequate feeding, lack of adequate medical facilities and personnel, corruption and inadequate funding. The literatures have also discussed the prospects for reforms, particularly the need for the Nigerian government, to improve the conditions of the prisons, to address the challenges facing the NPS.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Conceptual Framework

The conceptual framework of this study provides a foundational understanding of key terms and ideas central to appraising the Nigerian Correctional Service Act against international instruments on prisoners' rights. This framework elucidates the evolving notions of correctional services, prisoners' rights, and related measures, while highlighting their interplay with human rights protection. By defining these concepts, the chapter establishes a lens through which the provisions of the NCSA can be evaluated for alignment with global standards, such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). This section draws on historical, legal, and sociological perspectives to underscore the shift from punitive incarceration to rehabilitative and rights-based approaches in modern correctional systems.

2.1.1 Meaning of Correctional Services

Correctional services refer to the comprehensive system of institutions, policies, and practices designed to manage offenders through custody, rehabilitation, and reintegration into society, emphasizing humane treatment over mere punishment. In the Nigerian context, the term "correctional services" marks a paradigm shift from the archaic "prison service," reflecting a broader mandate that encompasses both custodial and non-custodial interventions. The Nigerian Correctional Service (NCoS), established under the NCSA, is defined as a government agency responsible for the safe, secure, and humane custody of legally interned persons, while promoting their reformation and social reintegration.

This definition aligns with global best practices, where correctional services are viewed not as punitive warehouses but as dynamic environments fostering behavioral change and societal protection. Historically, the origins of correctional services in Nigeria trace back to 1861, when Western-style prisons were introduced during British colonial rule, primarily for containment rather than correction.

The Prisons Act perpetuated this custodial focus, but the NCSA reorients the service toward rehabilitation, education, and vocational training, as outlined in Sections 1-5 of the Act. For instance, Section 2 of the Act mandates the NCoS to provide "safe, secure, and humane custody," explicitly incorporating elements of rights protection and offender welfare.

This evolution mirrors international trends, where correctional services are increasingly integrated with community-based programs to reduce recidivism and overcrowding.

Conceptually, correctional services can be dissected into three core pillars: custody, correction, and care. Custody involves the physical security of inmates, ensuring they remain within designated facilities while minimizing escapes or internal violence. Correction entails psychological and social interventions aimed at addressing the root causes of criminal behavior, such as through counseling, skills training, and moral education. Care focuses on health, nutrition, and dignity-preserving measures, preventing the dehumanization often associated with incarceration. In Nigeria, these pillars are operationalized through the NCoS's Integrated Service Charter, which commits to "quality services to offenders and customers in line with global best practices."

From a sociological standpoint, correctional services embody the state's dual role as punisher and reformer. Émile Durkheim's theory of punishment as a social solidarity mechanism posits that correctional institutions reinforce collective norms by isolating deviants while offering pathways back to conformity.

In Nigeria, this is evident in the NCoS's mandate to "rehabilitate and empower inmates through various programs," including agricultural training and literacy classes, which aim to transform prisoners into productive citizens.

However, challenges such as overcrowding— with facilities operating at over 200% capacity—undermine these ideals, highlighting the gap between conceptual intent and practical implementation.

Internationally, the United Nations Office on Drugs and Crime (UNODC) defines correctional services as encompassing "the management of offenders in a manner that promotes public safety and offender accountability while preparing offenders for successful reintegration."

This definition influences the NCSA, which in Section 12 of the Act emphasizes non-custodial alternatives like community service, signaling a de-emphasis on incarceration. Critics argue that without adequate funding—Nigeria's correctional budget remains under 1% of national expenditure—these services risk reverting to punitive models, perpetuating cycles of crime.

Furthermore, correctional services must navigate cultural nuances in diverse societies like Nigeria. In multi-ethnic contexts, programs must be inclusive, addressing issues like gender-specific needs under Section 34 of the NCSA, which protects female inmates from discrimination.

Empirical studies show that effective correctional services reduce recidivism by 20-30% through tailored interventions, as seen in comparative analyses with South Africa's model.

In appraising the NCSA, the conceptual meaning of correctional services underscores the need for alignment with instruments like the Nelson Mandela Rules, which mandate "humane treatment" (Rule 1). Violations, such as reported torture in Nigerian facilities, contravene this essence, necessitating reforms for true correction."

Ultimately, correctional services represent a bridge between retribution and restoration, demanding resources, oversight, and political will to fulfill their rehabilitative promise.

2.1.2 Meaning of Prisoners' Rights

Prisoners' rights refer to the basic rights and privileges to which any person imprisoned after being convicted is entitled. Thus, his freedom is taken away from him, but not his other rights. Additionally, It also needs that he must be treated with dignity and respect. Moreover, the ample privileges that are handed over to them. Furthermore, he should have the right to receive protection from abuse or violence, the right to legal counsel, medical care and supplies, and proper food and water. It also includes the capacity to communicate verbally with family members and friends.

In conceptual terms, prisoners' rights are bifurcated into absolute and qualified categories. Absolute rights, such as freedom from torture or cruel punishment, brook no derogation, even in emergencies. Qualified rights, like access to education or recreation, may be limited for security but must remain proportionate. This distinction

ensures that punishment targets the crime, not the person, aligning with John Rawls' veil of ignorance, where societal rules protect the vulnerable.

Historically, prisoners' rights emerged post-World War II amid reactions to Nazi camps and colonial abuses. The 1955 Standard Minimum Rules laid groundwork, revised in 2015 as the Mandela Rules to address contemporary issues like solitary confinement (Rule 44 limits it to 15 days).

In Nigeria, the NCSA integrates these by affirming rights to legal aid (Section 36) NCSA , medical care (Section 25), and separation of juveniles (Section 35), replacing the punitive Prisons Act.

Key rights include:

- (1) Right to life and personal integrity, prohibiting extrajudicial killings;
- (2) Right to health, with prisons obligated to match community standards.
- (3) Right to fair trial remnants, like access to counsel
- (4) Right to family and cultural life, enabling visits and religious practice; and
- (5) Right to rehabilitation, through education and work.

Violations, such as denial of medical care in Nigerian custody, breach Article 7 of the African Charter on Human and Peoples' Rights. Philosophically, prisoners' rights stem from natural law theory, positing inalienable dignity. In practice, they counter "less eligibility" doctrines that withhold rights to deter crime. Empirical data from Human Rights Watch indicates that robust rights frameworks reduce violence by 40% in facilities.

The NCSA Section 13 prohibits discrimination, as per Mandela Rule 2. But this right is less than adequately implemented. The State lacks the resources and the country has increasing human rights issues. More powerful.

2.1.3 Distinction between Custodial and Non-Custodial Measures

Custodial measures involve the physical confinement of offenders in correctional facilities, depriving them of liberty as a direct penalty, whereas non-custodial measures impose restrictions without incarceration, such as probation or fines, prioritizing community integration. This distinction is pivotal in modern criminal justice, balancing retribution with rehabilitation and reducing prison populations.

Non-custodial measures are penalties that can be imposed on an offender which does not involve custody. In other instances, courts generally opt for non-custodial measures. Custodial measures although harsh, may be discretionary in certain cases. Moreover, custodial arrangements are arrangements that incapacitate via imprisonment. According to Beccaria, it comes from proportionality.

At the core of Beccaria lies the principle of proportionality. Section 18 of NCSA allows for imprisonment for serious offences in Nigeria.

They foster accountability without stigma, with studies showing 25% lower reoffending rates.

The distinction hinges on offense gravity, offender profile, and societal impact. Internationally, the International Covenant on Civil and Political Rights (ICCPR) Article 9 limits pre-trial custody, favoring alternatives. In Nigeria, overcrowding (70,000 inmates in 50,000 capacity) necessitates non-custodial expansion.

Critiques note non-custodial net-widening, ensnaring minor offenders. Yet, evidence supports their efficacy in human rights compliance.

2.1.4 Correctional Services and Human Rights Protection

The Nigerian correctional service is an important part of human rights in Nigeria. The service aims to combat the effects of imprisonment by treating people without any physical harm, as well as preventing maltreatment. The Nigerian Correctional Service Act (NCSA) 21 specifically provides for the responsibility of the Service in relation to human rights. In accordance with Section 2 of the Act, “The Service shall at all times comply with appropriate human rights standards and correctional best practices” and “shall ensure that all persons in its custody are treated humanely and with respect for their dignity as human beings”.

As per NCSA 21, custodial centres must function as a humane environment in which the rights of all detainees are not violated. Use of human rights is in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules). This commitment has already begun to witness some reforms in the Human Rights sector of Nigeria.

The Act's Section 25 protects the right to the facilities of medical services, for instance, which guarantees medical care for inmates, including regular health screenings and treatment for illnesses, yet persistent reports from organizations like Amnesty International and the National Human Rights Commission highlight ongoing neglect, such as inadequate medical facilities leading to untreated diseases and high mortality rates from preventable conditions in overcrowded centers.

This Act contains provisions related to discrimination. No inmate should suffer discrimination on account of gender, caste, creed, colour, or religion. Subdivision 34 encounters.

A gender advisory unit will soon be established. On the Board's advice, the Central Government shall formulate policies for the protection of female prisoners' rights on such terms and conditions as may be specified. Such measures may provide safeguards against sexual harm, access to medical care and treatment, access to legal

aid, provision of women-centred medical care, etc. implementation of this provision is relatively patchy. Female inmates are often denied legal rights due to cultural and other reasons. Consumer Grievance Cell. A complaint mechanism must be established by the NCSA. In addition, any inmate should be permitted to lodge a complaint on any.. Nigerian prison centres have a unique and scarcely recognised role as the “guardian and defender of the interests and welfare of the persons in their custody”. In point of fact, custodial centres in Nigeria owe a duty to “constitutionally enforce” human rights and provide “access to justice”.

In this manner, such detention centres do not just exercise power over criminals, but have a positive obligation to protect and respond to vulnerabilities of former inmates who may be on parole or probation. The concept of restorative justice is what underpins the theoretical nature of this duty and obligation. Simply put, custodial centres do not have to be spaces of punishment but can rather be useful therapeutic spaces for the enforcement of human rights constitutionally. In practice, the spaces also offer excellent opportunities for people-centric processes of restorative justice and the enforcement of human rights. Inmates may engage in successful practice work in a variety of useful training, educational and skills programs. It is hoped that on discharge from out of the custodial centres, such inmates will be able to access them in their various communities. They can also within the scope allowed by their experience join the workforce in any capacity. Inmates also find it worthwhile to apply themselves to these vocational activities as a productive means of self-development.

To address these, the United Nations Office on Drugs and Crime (UNODC) has collaborated with the NCoS on targeted training programs, such as workshops on prisoner classification and the Mandela Rules, which have trained hundreds of correctional officers in north-eastern states to promote safer, more humane treatment; additionally, initiatives like the Chess in Prisons program and sports-based interventions aim to enhance critical thinking, mental health, and inmate-officer relations, while facility upgrades funded by international partners, including Germany, have improved vocational workshops and staff quarters in places like Maiduguri. Empirically, while specific nationwide data on suicide reductions is limited, studies from Nigerian prisons indicate that rights-focused reforms, such as improved mental health services in urban facilities, have correlated with lower rates of self-harm and suicides potentially by up to 35% in pilot programs, through better access to counseling and reduced isolation, as evidenced in reviews of services provided to over 179 inmates in two major prisons, where addressing overcrowding and neglect led to measurable improvements in wellbeing.

To assess the efficacy of NCSA effectively, monitoring must be enhanced. Organizations such as National Human Rights Commission must monitor correctional centres independently to ensure compliance with the standard and rules. It

can accomplish this using routine audits, data collection, and surveys regarding the condition of inmates and HC members. Thus, it would highlight lapses hindering the implementation of the Act, and recommend further reforms to ensure Nigeria does not have a correctional system that kills.

2.2 Theoretical Framework

This section explores theories underpinning correctional practices, evaluating their implications for prisoners' rights under the NCSA vis-à-vis international standards. These theories—human rights, rehabilitation, retributive justice, and deterrence—offer diverse rationales for punishment, informing policy critiques.

2.2.1 Human Rights Theory

In Nigeria's criminal justice framework, human rights theory underscores that all persons, including those in correctional facilities, retain an inherent and inviolable dignity that obligates the system to protect universal entitlements irrespective of their conviction, ensuring that punishment does not erode basic humanity.

Drawing from Kantian ethics, “this approach treats rights as intrinsic to individuals rather than privileges bestowed by the Nigerian state, shaping the country's commitments to international pacts like the International Covenant on Civil and Political Rights (ICCPR), which Nigeria ratified in 1993 to affirm protections against arbitrary detention and mistreatment”.

Applied to Nigerian prisons now termed correctional centers under the reforms, “this theory demands robust defenses against abuse, aligning with Article 5 of the Universal Declaration of Human Rights (UDHR) that bans torture, cruel, inhuman, or degrading treatment, while also advancing equity through access to education, vocational training, and healthcare for inmates”..

The Nigerian Correctional Service Act, NCSA Section 13 underscores this fact through the documentation of inmates. It is important to protect their rights and interests by monitoring progress. Incarceration also serves the purpose for which it is imposed. Most world documents call for proper filing. In addition, none of them states that the files of inmates should be discriminatory. Records must be maintained diligently.

Breach of Rights pertaining to other Provisions of Act.

The NCS Act presents high integration between international norms and government policy, reflecting shared values. It also reflects a shared assumption that security needs and rights issues are interconnected. But, the realities today show something else. The Nigerian correctional centers are rife with susceptibility and abuse of rights by officers of the prison service.

Most Nigerian prisons have demonstrated serious violation of rights. Various Non-Governmental Organizations reports show this. Serious overcrowding affects 1,200,000 inmates. A facility for 5,000 now has many more.

Critiques in the Nigerian context often raise cultural relativism, positing that universal human rights standards imported from Western frameworks may conflict with indigenous cultural norms around communal justice, authority, and punishment, where traditional practices might prioritize collective harmony over individual entitlements or view harsh conditions as culturally acceptable deterrents.

For instance, debates on issues like gender roles or sexual orientation in prisons highlight how relativist arguments resist uniform application, suggesting adaptations to local values are needed to avoid cultural imperialism. Nevertheless, proponents maintain that universality must take precedence in Nigeria, as fundamental dignity transcends cultural boundaries, driving calls for stronger enforcement through social work interventions, better training for correctional officers, and alignment with African regional instruments like the African Charter on Human and Peoples' Rights to bridge these divides and foster genuine reform.

2.2.2 Rehabilitation Theory

Rehabilitation theory in Nigeria emphasizes punishment as a tool for reforming offenders by tackling underlying criminogenic factors through targeted interventions like education, vocational skills training, and therapeutic counseling, differing from retribution's focus on past wrongs by prioritizing future societal reintegration. This approach gained traction in the Nigerian correctional system following the enactment of the Nigerian Correctional Service Act (NCSA) of , which marked a shift from the punitive-oriented Prisons Act to a more rehabilitative framework, mandating the Nigerian Correctional Service (NCoS) to implement programs aimed at offender reformation and societal reintegration, including skills acquisition, educational opportunities, and psycho-social support to address issues like poverty, lack of education, and substance abuse that often drive criminal behavior.

Under Section 14 of the NCSA, correctional facilities are required to provide vocational training in areas such as carpentry, tailoring, hairdressing, masonry, and modern farming techniques, alongside educational programs to equip inmates with employable skills and foster self-reliance upon release, aligning closely with international standards like Mandela Rule 91, which advocates for recreational and educational activities to maintain prisoners' physical and mental well-being as part of their ongoing connection to community life.

In practice, Nigerian correctional centers, such as those in Ikoyi and Wukari, offer programs including recreational activities like football, table tennis, music, and drama to reduce stress, build teamwork, and prevent idleness, while vocational initiatives

focus on trades that can lead to post-release employment or entrepreneurship, with some facilities partnering with local tradespeople for apprenticeships.

Evidence from studies in Nigerian contexts suggests that effective rehabilitation can lead to notable reductions in recidivism, with interventions like cognitive behavioral therapy (CBT) demonstrating reliability in lowering reoffending rates by addressing violent tendencies and criminal thinking patterns among released prisoners in places like Enugu State, potentially dropping recidivism by 10-20% when properly implemented, as seen in broader evaluations where participants reported life-changing skills acquisition and reduced likelihood of returning to crime.

However, national recidivism rates remain high, estimated at around 52.4% as of recent data, up from 37.3% in 2005, with over 60% of inmates in some centers being repeat offenders, largely due to implementation challenges that undermine these programs' potential.

Critics in Nigeria argue that while the theory promotes humanization and rights by viewing incarceration as an opportunity for growth rather than mere punishment, it often involves elements of coercion through mandatory participation or harsh enforcement, and more pressingly, suffers from systemic flaws like overcrowding, inadequate facilities, outdated equipment, and insufficient funding, turning prisons into environments that inadvertently foster criminal subcultures instead of reform.

For instance, in centers like Wukari, reformatory activities are rated poor by over half of inmates, with harsh treatment by officers and a focus on hard labor over meaningful skills training leading to frustration and minimal positive impact on lives, while low participation rates due to voluntary enrollment and resource shortages result in idleness that exacerbates recidivism risks.

In South-western Nigeria's correctional facilities, deplorable conditions such as unhygienic environments and lack of medical care further violate inmates' rights and hinder rehabilitation, creating a cycle where released individuals face stigma, unemployment, and reintegration barriers that drive reoffending.

Despite these criticisms, proponents highlight successes in specialized programs, such as UNODC-supported initiatives for rehabilitating alleged Boko Haram associates through tailored reintegration efforts, which advance human rights by emphasizing dignity and community safety over punitive isolation, though broader reforms like increased funding, better infrastructure, and post-release support are needed to fully realize the theory's benefits in reducing Nigeria's high recidivism burden.

2.2.3 Retributive Justice Theory

Retributive justice theory emphasizes punishment of the criminal by the state. Also, it should take place merely because they deserve punishment and not for any other reason. This principle holds that you cannot punish someone on the ground the

punishment will deter others. In the same way, it does not allow punishing someone for protecting the society or rehabilitating the individual. One can say that it balances the scales evenly by making them suffer in the same measure as the wrongs they did.

Philosophers believe a crime is a violation of social order. In a comparable vein, they view it as an infringement of the cosmic order. As a result, it disrupts moral equilibrium. Moreover, the theory aims to restore a state of equilibrium by imposing a price on the wrongdoer. Consequently, turning it into a moral theory. The code of Hammurabi is the first example of the theory of criminal justice that came a long way.

Immanuel Kant, in his *Metaphysics of Morals* (1797), argued that punishment is a categorical imperative—a moral duty independent of empirical consequences. For Kant, failing to punish a guilty person would treat them as a means to an end (e.g., societal benefit) rather than as an autonomous rational being deserving of respect through accountability. He emphasized that punishment must be proportionate to the crime to honor the offender's humanity, rejecting any form of leniency or excess that could undermine this principle. Kant famously stated that even if a society were dissolving, the last murderer in prison should still be executed to uphold justice.

Georg Wilhelm Friedrich Hegel, built on this by conceptualizing punishment as a dialectical process that negates the negation: crime negates the victim's rights and the social order, and punishment negates the crime, thereby restoring equilibrium and affirming the offender's rational agency. Hegel viewed retribution not as vengeance but as a rational affirmation of the law's universality. Both philosophers championed the principle of *lex talionis* (Latin for "law of retaliation"), often paraphrased as "an eye for an eye," which demands that the punishment mirror the harm caused in severity and kind. However, modern interpretations often soften this to "proportionality," ensuring the response fits the offense without literal replication (e.g., not actually blinding someone for causing blindness). Critics of retributivism, such as utilitarians like Jeremy Bentham, argue it can lead to unnecessary suffering without proven societal benefits, while others highlight its potential for cultural bias in defining "desert." Despite this, it remains influential in many legal systems, underpinning concepts like mandatory minimum sentences.

2.2.4 Deterrence Theory

Deterrence theory posits that punishment prevents crime by instilling fear through rational calculation of risks, focusing on specific deterrence and general deterrence for society. One of the propounders of the theory is Cesare Beccaria's 1764 *On Crimes and Punishments* emphasized three principles: certainty, severity, and celerity (swiftness of imposition) to maximize preventive impact without cruelty. Jeremy Bentham's utilitarianism reinforced this, viewing behavior as a "hedonic calculus" where pain avoidance drives compliance. Gary Becker's 1968 economic model

formalized it by, treating crime as utility-maximizing when expected gains exceed costs.

In correctional contexts, these principles shape sentencing and regimes to reduce recidivism and crime rates. Specific deterrence conditions individuals via direct consequences, like privilege loss in prisons. General deterrence publicizes penalties as societal warnings, evident in high-profile cases post-riots. Empirical evidence highlights certainty's primacy: perceived apprehension risks over 30% correlate with lower offenses, while many yields mixed results moderate sentences deter better than extremes, which boost recidivism by 20-30% due to stigma. Celerity enhances efficacy, as in Hawaii's HOPE program, which cut violations through rapid responses.

Internationally, deterrence informs proportionate sanctions in the Nelson Mandela Rules (Rule 36), mandating penalties that deter without infringing dignity. Yet, harsh measures risk violating ICCPR Article 7's ban on cruel treatment, such as prolonged solitary (limited to 15 days by Rule 44). In Nigeria, the NCSA integrates deterrence via graded penalties (Section 20) and community service (Section 12), imposing visible, swift sanctions for misdemeanors to balance prevention with rights, reducing overcrowding in facilities at 200% capacity.

Nigerian studies support marginal effects: a 2024 analysis found community service deters minor offenders 25% more than fines via public certainty. However, backlogs undermine celerity, and poverty-driven crimes challenge rational assumptions. Critiques note over-deterrence's net-widening and ethical clashes with human rights, as severity often backfires for impulsive acts. Hybrids with rehabilitation offer promise: "smart deterrence" combining swift sanctions and therapy yields 15-25% better outcomes. The NCSA's vocational programs (Section 30) exemplify this, tempering fear with reform for sustainable crime reduction.

CHAPTER THREE

THE PROVISIONS OF THE NIGERIAN CORRECTIONAL SERVICES ACT

3.1 Establishment and Administration of the Nigerian Correctional Service

3.1.1 Structure and Functions of the Service

The Nigerian Correctional Services Act replacing the Prisons Act, establishes a bifurcated structure consisting of the Custodial and Non-Custodial Services. Section 1 establishes the Nigerian Correctional Service (NCoS) as a federal institution with its National Headquarters in the Federal Capital Territory, headed by a Controller-

General, with at least eight Deputy Controllers-General, one of which is to be specifically responsible for the Non-Custodial Service. Zonal Offices, State Commands, Custodial and Non-Custodial Centres and Training Institutions are established, with their hierarchical structure indicated. Section 2 and Section 10 sets out the functions of the Service, which include ensuring compliance with international human rights instruments, the implementation of non-custodial measures and the reformation, rehabilitation and reintegration of offenders. Specifically, the Custodial Service is tasked with the safe and humane custody of offenders, risk and needs assessment, implementation of correctional treatment programs, provision of medical and psychological services, education and vocational training and facilitating speedy trial.

The non-custodial service, in Part II of the Act, is responsible for the administration of community service, probation, parole and restorative justice, with the responsibility for the administration of these non-custodial measures in the hands of the State Non-Custodial Services. A critical analysis of these provisions of the Act with international instruments is as follows. The UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) provides that prison personnel shall be carefully selected, in order to ensure their suitability for the delicate task of taking care of those confined within their walls. In Rule 74. This provision finds reflection in Section 3, which sets out the requirements for the appointment of the Controller-General of the Service. However, the requirement for the Controller-General to have had requisite specialized training and experience, as contained in the Act, exceeds the provision of Rule 75 of the Mandela Rules, which states that all prison personnel shall receive training and shall be made aware of the laws and regulations which apply to the rights and duties of prisoners and to the procedures for their enforcement. Principle 4 of the Basic Principles for the Treatment of Prisoners states that conditions in prisons should approximate as closely as possible the positive aspects of life in the community.

This provision is in tandem with Tokyo Rule 2.3, which states that the decision-making process regarding non-custodial measures should promote fair, consistent and equity in sentencing and should take into account the needs of the victims, the community and the offender. This provision of the Act is laudable as it is in response to the prison congestion which has been a long-standing challenge in Nigeria, with awaiting-trial inmates constituting a high percentage of the prison population.

However, as noted in the appraisal, while there are prospects of reducing recidivism with the introduction of vocational skills acquisition programs, the challenges of inadequate resource allocation, as obtainable in other countries, may hinder the success of the Act. Additionally, the inclusion of training institutions in the structure of the Service, as stipulated in Section 1, aligns with Mandela Rule 76, which emphasizes in-service training for prison staff. As noted in the appraisal, while this provision has the prospect of enhancing the skills and knowledge of staff, in the

absence of a stipulated curriculum on human rights, it may not align with international standards.

The provision of risk/needs assessment as part of the functions of the Service in Section 10 of the Act is progressive and aligns with evidence-based practices in instruments such as the International Covenant on Civil and Political Rights (ICCPR), which, in Article 10, stipulates that all persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person. In light of the above, the structure and functions of the Service as provided for in the NCSA is a huge step in the right direction and prospects for its alignment with international standards include a better observance of the rights of offenders, while the challenges include bureaucratic bottleneck. However, for the Act to be in full alignment with international standards, there is a need for stronger oversight and funding.

3.1.2 The Role of the Controller-General and Other Officials

Section 3 provides for the appointment of the Controller-General of the Service by the President, subject to the recommendation of the Civil Defence, Correctional, Fire and Immigration Services Board and the confirmation of the Senate. The person to be appointed must be an Assistant Controller-General with requisite training and experience and who has shown leadership ability. Section 4 of the Act sets out the powers of the Controller-General, which includes the general superintendence of the Service, ensuring the safety and humane custody of offenders, ensuring the provision of reformation programs, and administering non-custodial measures.

The Controller-General is permitted to delegate his powers, as stipulated in Section 5, to ensure continuity. Deputy Controllers-General, appointed through the same process as stipulated in Section 7, are to head the various Directorates of the Service, which include Directorates of Finance, Inmates Training, Health and Operation as stipulated in Section 8. State Controllers are to head State Commands and are answerable to the Controller-General, while Superintendents are to head Custodial Centres and are responsible for the safe and humane custody of offenders, maintenance of discipline and the implementation of reformation programs (Sections 12, 17). An analysis of the provisions with respect to the role of the Controller-General and other officials of the Service with international instruments reveals the following. Rule 79 of Mandela Rule provides that every prison shall have a governor, director or equivalent administration authority, who shall be responsible for the treatment and well-being of the prisoners, the maintenance of order and discipline, the assessment of the training needs of the prisoners and the provision of regular and comprehensive reports on the prison management. This provision is satisfied by the stipulation in Section 3 of the NCSA that the Controller-General must have requisite specialized training and experience.

3.2 Treatment and Management of Prisoners

3.2.1 Admission, Classification and Separation of Prisoners

The Nigerian Correctional Services Act provides a detailed framework for the admission, classification and separation of prisoners, with the objective of ensuring humane treatment, rehabilitation and compliance with international standards. With respect to admission, Section 13 provides that on admission, offenders are to be documented, which includes taking their biometric details, personal particulars, health screening and notification of next of kin or legal representatives. Superintendents of Custodial Centres are to ensure that there is a valid warrant of arrest and detention before admitting offenders into the Custodial Centre, as stipulated in Section 12 of the Act.

The Superintendent is to reject the admission of offenders into the Custodial Centre if the Centre is already congested as stipulated in Section 12(8) NCSA or where the offender has terminal, life-threatening, acute or contagious illness or severe physical or mental disability or where the offender is a child who ought not to be detained in an adult prison, as stipulated in Section 12(10) NCSA. Where a Custodial Centre is congested, the Superintendent is to notify the Chief Judge of the State or the Federal Capital Territory, the Attorney-General of the State or of the Federation, as the case may be and other authorities, within seven days, as stipulated in Section 12(4) NCSA, with the remediation to be carried out within three months as stipulated in Section 12(5-7) NCSA. With respect to classification, Section 14 provides for the classification of prisoners in accordance with their ages, gender, state of physical and mental health, nature of offence, length of sentence, among others, with the purpose of determining the most appropriate way of managing the offender. The First Schedule to the Act classifies Custodial Centres into the following: a maximum-security custodial centre for the confinement of offenders serving sentences for serious offences; a medium-security custodial centre for the confinement of offenders serving sentences for less serious offences; an open custodial centre for the reformation and rehabilitation of offenders serving sentences for minor offences; farm centre for the reformation and rehabilitation of offenders through engaging them in agricultural work; a satellite custodial centre for the detention of offenders convicted for minor offences; a Borstal institution for the detention and reformation of young persons and young offenders; female custodial centre for the reformation, rehabilitation and reintegration of female offenders. This classification ensures the classification of prisoners based on risk and the assignment to appropriate programs.

With respect to separation, Section 34 NCSA provides that female prisoners are to be kept separately from male prisoners and are to be provided with separate facilities which include provision for hygiene and sanitation, ante-natal and post-natal care, and creche for the care of their babies who are below the age of 18 months. Juveniles are to be separated from adults and are to be kept in a Borstal institution where they are to be provided with education and vocational training. Adults are not to be kept in a Borstal institution, as stipulated in Section 35 of the NCSA. Furthermore, offenders

with acute mental illness may be transferred to a mental health facility by a Mental Health Review Board as stipulated in Section 24 of the NCSA. An analysis of the provisions of the Act with respect to admission, classification and separation of prisoners reveals the following.

This is likely to bring Nigeria in line with global practices, as for instance, in the US and Canada. The provision for non-custodial measures in Part II of the Act will also ensure that offenders who do not necessarily require to be incarcerated are not admitted into the custodial facilities. However, there are challenges to the implementation of these provisions, which include the chronic congestion of the prisons in Nigeria, often in excess of 200% of their capacity, leading to a situation where prisoners are mixed up, with awaiting-trial persons dominating the population and the attendant risk of violence. There is also the challenge of inadequate funding, which may hinder the construction of facilities for the classification of prisoners, while the lack of adequate personnel and corruption may hinder the notification process as stipulated in Section 12 and the health screening as stipulated in Section 13 of the NCSA. There is also the challenge of constitutional issues arising from the conflict between the NCSA and State laws, as well as overlapping provisions with the ACJA. Overall, while the NCSA has attempted to provide for the admission, classification and separation of prisoners in line with the Mandela Rules, for the NCSA to fully align with Rule 83 of the Mandela Rules, which stipulates that prisons shall be inspected regularly by qualified and experienced inspectors appointed by a competent authority independent of the prison administration, there is need for a more effective monitoring framework and resource allocation. This will transform the otherwise progressive provisions into reality, thereby enhancing the protection of prisoners.

3.2.2 Provision for Medical Care, Education, and Vocational Training for Prisoners.

The Nigerian Correctional Services Act (NCSA) has introduced a new approach to imprisonment in Nigeria. Unlike the Prisons Act which only provided for imprisonment as a form of punishment, the NCSA provides for imprisonment as a means of punishment and a platform for rehabilitation through the provision of health, educational and vocational skills to inmates. This provision is guaranteed under Section 10 of the Act which states that the Correctional Service is expected to ‘provide custody, care and maintenance for all prisoners... through the provision of... (a) medical, psychological, educational and vocational skills for prisoners... (b) this is deemed necessary for the reformation, rehabilitation and reintegration of the inmates into the society’. In addition to the above, the Act further provides for the remuneration of work done by inmates to prevent exploitation of the labour of inmates, and the conduct of mental health examination on inmates and transfer to mental homes when necessary. This is respectively provided for under Section 15 and Section

24 of the Act. All these sections are in consonance with the preamble of the Act which provides that ‘ an offender is deserving of care, humane treatment and an opportunity for social rehabilitation...’.

This new development is in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) which recommends that ‘ prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation’. Specifically, Rules 24-35 of the Mandela Rules provides for the health-care that is to be made available to prisoners. It provides that health-care services should be provided to prisoners which are at least equivalent in quality to that made available to the general population. In particular, it provides that prisoners should enjoy the same standards of health-care that are available in the general community, and that health-care should be provided to prisoners free of charge. More specifically, it provides that prison health care services should provide free of charge, all necessary preventive, curative and mental health services which should include; routine and regular screening of prisoners for communicable diseases, dental care, mental health services, psychological services, provision of eye glasses where necessary etc.

The NCSA has domesticated this Rule in Section 10 of the Act where it guarantees the provision of medical, psychological, educational and vocational skills for prisoners. In the same vein, Rule 27 of the Mandela Rules provides that mental health services and psychiatric treatment should be provided to prisoners with serious mental health problems without any adverse effect on their rights as established under these Rules.

The NCSA has also domesticated this Rule in Section 24 of the Act where it provides for the examination of the mental health of prisoners and transfer of mentally deranged prisoners to mental institutions for treatment. The NCSA provides for this in Section 24 of the Act where it provides that there shall be established a review board in each state of the federation to carry out among other functions, the examination of the mental or physical health of a prisoner and ordering his transfer to a psychiatric hospital or other appropriate mental health facility for proper care and treatment if he is found to be insane. In the same vein, Rule 104 of the Mandela Rules provides that every illiterate prisoner should be entitled to education. The Rule also recommends that education should be integrated with vocational training and should aim to reduce recidivism and promote successful resettlement.

The NCSA also domesticated this Rule in Section 10 of the Act where it provides that the Correctional Services is expected to provide among other things, educational and vocational skills for prisoners. Rule 105 of the Mandela Rules also recommends that prisoners should have access to educational and vocational skills as part of their rehabilitation and treatment in prison. This Rule has also been domesticated in the NCSA under Section 10 of the Act where it provides for the provision of educational and vocational skills for prisoners. The Basic Principles for the Treatment of Prisoners,

1990 also provides that efforts addressed to the abolition of solitary confinement are justified and should be encouraged. The Principle further provides that education and vocational training should be provided to prisoners which are necessary to prepare them for their return to society and assist them in their social rehabilitation. This Principle has been domesticated in the NCSA in Section 10 of the Act which guarantees the provision of educational and vocational skills for prisoners.

The International Covenant on Civil and Political Rights (ICCPR) Article 10 also recommends that the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. This is in consonance with Section 10 of the NCSA which guarantees the provision of medical, psychological, educational and vocational skills for prisoners to assist them in their reformation, rehabilitation and re-integration into the society. Article 16 of the African Charter on Human and Peoples Rights which provides that every individual shall have the right to enjoy the best attainable state of physical and mental health has also been domesticated in the NCSA. Section 10 of the Act provides that the Correctional Services is expected to provide among other things, medical and psychological services for prisoners. Thus, the NCSA not only complies but innovates by institutionalizing remuneration for work (Section 15), surpassing Mandela Rule 97's call for equitable labor by incentivizing participation and fostering economic independence. An appraisal of these provisions reveals substantial prospects for transformative impact, particularly in curbing Nigeria's alarming recidivism rates, which hover around 37% as per recent studies, with vocational training emerging as a proven deterrent. In facilities like Kuje Correctional Center, where diverse programs in tailoring, carpentry, and ICT have been rolled out, graduates exhibit 20% lower reoffending rates, underscoring the rehabilitative power of skills acquisition.

The Federal Government's August 2025 curriculum rejig for the Nigerian Correctional Service (NCoS) integrates modern farming techniques and digital literacy, aligning with Section 10 to equip inmates for life after prison employment in Nigeria's agrarian and tech sectors. International collaborations, such as the UNODC's Chess in Prisons initiative, blend education with cognitive rehabilitation, reducing facility tensions and enhancing emotional resilience—outcomes that directly support Mandela Rule 105's recreational mandates. Moreover, “mental health provisions under Section 24 address a critical gap; with 40% of inmates reportedly suffering untreated disorders, Review Boardshelp in timely interventions, potentially lowering suicide rates by 15-20% as seen in similar African models”. These efforts promise broader societal benefits: reduced recidivism could alleviate overcrowding, currently at 136% nationally, and save billions in custodial costs, while empowered ex-inmates contribute to economic growth, echoing the Tokyo Rules' emphasis on community reintegration.

Yet, the implementation challenges temper these prospects, rooted primarily in gross underfunding that renders legislative intent aspirational. The NCoS's 2025

budget allocation of NGN 15 billion—barely 0.02% of the national coffers falls short of the 1-2% recommended by Penal Reform International for effective services, leading to dilapidated clinics and obsolete training equipment. Health care exemplifies this: despite Section 10's mandates, only 20% of centers have functional medical facilities, resulting in rampant untreated tuberculosis and HIV among 40% of inmates, as highlighted in a November 2024 *IntechOpen* analysis updated for 2025 trends. The January 2025 50% hike in feeding allowances to NGN 1,000 per inmate addresses nutrition marginally but fails to combat broader deficiencies, with drug shortages and outdated equipment persisting due to systemic corruption in procurement.

Mental health fares worse; Section 24's Review Boards operate sporadically amid a 1:50 staff-to-inmate ratio, far exceeding Mandela Rule 74's adequacy thresholds, exacerbating stigma and isolation in overcrowded wards. Education and vocational training suffer similarly: while Section 10 envisions universal access, only 4% of inmates—about 3,030—completed programs in 2024, per NCoS data, hampered by high inmate-to-staff ratios that prioritize security over instruction. A June 2025 ResearchGate study on Ogun State facilities attributes rising recidivism to this dichotomy, where inner transformation lags behind superficial skills, with 60% of participants lacking post-release support. These hurdles are compounded by infrastructural deficits and cultural barriers, such as societal stigma viewing vocational programs as "prison perks," which discourages private sector partnerships.

In Cross River State, a July 2025 study on youth inmates reveals that while vocational education boosts rehabilitation, inconsistent funding leads to program dropouts, perpetuating cycles of reoffense. Comparatively, Rwanda's post-genocide model, with 90% program coverage, has slashed recidivism to 10% through sustained investment—a stark contrast to Nigeria's fragmented approach. Recent positives, like the Catholic nonprofit CAPIO's July 2025 expansion to 50 centers for women's health and literacy, and the August 2025 CELSIR conference fostering university collaborations, signal momentum. However, without ring-fenced funding and anti-corruption measures, such as digital tracking for supplies, the NCSA risks mirroring the Prisons Act's failures.

3.2.3 Non-Custodial Measures and Alternatives to Imprisonment

Part II of the Nigerian Correctional Services Act (NCSA) consists of sections 37-47. It introduces for the first time, the Non-Custodial Service, as part of the correctional system, with responsibilities for the administration of non-custodial measures which include community service, probation, parole and restorative justice. The Non-Custodial Service is charged with the responsibility of administering these measures to provide non-custodial sentencing options to decongest the prisons of offenders that do not pose serious risk to the society but will be given the opportunity to make amends and remain in the community while reporting to the authorities. Section 37 of the Act defines a non-custodial sentence to include “any sentence of punishment other

than imprisonment or other forms of custody” while sections 38-42 provide for the granting of probation and community service orders in offences that attract imprisonment for a term not exceeding 3 years. Sections 43-45 of the NCSA make provision for parole in deserving circumstances, while sections 46-47 provide for restorative justice to be applied in appropriate circumstances. These sections are the first time any legislation in Nigeria has recognized and made concrete provisions outside of custodial sentences for offenders, providing for humane and cost-effective criminal justice options that address prison congestion.

The use of restorative justice in section 47 of the NCSA to divert offenders from the formal criminal justice process and to reduce reoffending is in line with Tokyo Rule 17.1. Similarly, the safeguards in the International Covenant on Civil and Political Rights (ICCPR) Article 9 and African Charter on Human and Peoples’ Rights Article 7 against arbitrary arrest and detention, and the interpretation by their respective Commissions that lengthy pretrial detention amounts to arbitrary arrest and detention, support these new provisions.

Indeed, the NCSA is a trailblazer in Africa where custodial sentences remain the preferred mode of punishment. An evaluation of these new provisions will reveal their potential to reduce prison population drastically, which is urgent given that as of April 2025, the occupancy rate of Nigerian prisons was 136% with over 81,000 inmates. In July 2024, the United Nations Office on Drugs and Crime (UNODC) and the National Human Rights Commission (NHRC) released a report which indicated that 70% of Nigeria’s prison population was made up of awaiting trial persons. However, a follow-up report by the UNODC and the NHRC in July 2025 revealed that the population of awaiting trial persons had reduced to 66%, indicating a 4% reduction, following the implementation of the ACJA 2015 and the NCSA, which have given effect to the use of non-custodial measures. Indeed, a total of 7,646 persons were released from custody as of July 2025, since the coming into force of the ACJA in 2015.

Following the successful implementation of non-custodial measures in Lagos State which led to the decongestion of the prisons, the Chief Judge of Lagos State issued the Non-Custodial Sentencing Practice Direction in September 2025. The Direction is designed to provide guidelines and framework for the implementation of non-custodial measures in Lagos State. Within a month of issuing the Direction, it had facilitated the processing of 500 non-custodial sentencing cases, which reduced the number of admissions into the prisons by 15% in the pilot courts. Community service is provided for under section 38 of the NCSA and as of January 2025, a total of 278 persons were engaged in community service providing sanitation and environmental and social services in the society.

3.3 Rights and Protections for Prisoners

3.3.1 Measures Against Torture and Inhuman Treatment

The NCSA represents a significant departure in Nigeria's correctional legal framework by incorporating relevant measures against torture and inhuman treatment. According to section 2 (a) of the Act, the NCSA requires the NCS to comply with the provisions of all international instruments on human rights to which Nigeria is a signatory. It can be inferred that the law has prohibited torture as it emphasizes the need for humane custody of offenders and offenders. It is worthy of note that the explanatory memorandum and the long title of the Act, the objects of the Act, among others, include the prevention of torture or inhuman or degrading treatment or punishment or other forms of violence against inmates. Among other provisions, section 12 of the NCSA requires superintendents of correctional centers to ensure that safe, humane and secure custody of inmates in his or her center is maintained, imposing on the superintendent the obligation to ensure that no inmate in his or her center is subjected to arbitrary or summary punishment. Furthermore, the provision of sections 10 (g) (h) of the Act, which stipulates that the NCS must make provision for the health and psychological needs of inmates to prevent any harm to them and section 24 of the Act which stipulates that there shall be a Mental Health Review Board in every state of the Federation to assess the mental health of inmates and take decisions to place them in relevant mental health facilities, further ensures the prevention of torture and inhuman treatment of offenders.

These provisions are in tandem with the provision of section 24 of the NCSA and the ACJA on training and prohibition of torture. In addition, rule 1 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) stipulates that there should be no torture or cruel, inhuman or degrading treatment or punishment. Furthermore, rules 57 and 58 of the Mandela Rules further provide that the information about the prohibition of torture should be made available to offenders and that prompt, impartial and effective investigations into any allegation should be made. These provisions are in line with section 10 (e) of the NCSA. While the NCSA has made significant effort to prohibit torture, it has failed to provide for any complaint mechanism as provided in rule 56 of the Mandela Rules or any provision to prohibit the use of solitary confinement, which, according to rule 43 of the Mandela Rules, can amount to torture, if prolonged beyond fifteen days.

The NCSA, nonetheless, in its sections 49 and 50, has made reference to the Convention Against Torture (CAT) in relation to the mandate of the Civic Responsibility and Community Orientation Committee to ensure the prohibition of torture. Though there are challenges to the implementation of the provisions of the NCSA, as noted in Nigeria's periodic reports to the CAT Committee, the NCSA has made effort to ensure that torture is prevented. This argument is supported by sections 10 and 12 of the NCSA, which provide for medical care. Looking forward, the NCSA has the potential to improve the dignity of offenders by providing training

against torture and using non-custodial measures, which may reduce the incidence of torture.

However, the challenges of implementation of the provisions of the NCSA , amongst others, may prevent the realization of these potential benefits. It is thus apposite to suggest that the Nigerian government should ensure that the provisions of the NCSA are implemented.

3.3.2 Access to Legal Aid and Fair Trial Rights

The NCSA makes some provisions to ensure offenders' access to legal aid and fair trial rights. One of the notable provisions in this regard is section 10 (j) of the Act which stipulates that the NCS must facilitate speedy determination of all awaiting trial cases. The provision is significant because awaiting trial persons in Nigeria constitute over seventy percent of inmates. Speedy determination of their cases may reduce the rate of torture or inhuman treatment, which may be used as an instrument to expedite the determination of cases. In addition, section 12 (3) of the NCSA, which stipulates that offenders must not be kept in custody if they are not lawfully detained, further underscores the commitment of the Act to offenders' fair trial rights. The provision of sections 12 (4)-(7) of the NCSA, which requires state controllers to write to chief judges of Nigeria, attorney-generals of Nigeria, prerogative of mercy committees, amongst others, to take necessary actions to reduce the awaiting-trial population, within one week and three months, respectively, may further facilitate offenders' fair trial rights. This is because offenders' fair trial rights may be compromised if the facilities housing them are overcrowded. However, these provisions have not fully addressed the question of access to legal aid and fair trial rights of offenders. For instance, section 36 (3) of the NCSA confers autonomy on Correctional Service legal officers to provide representation and advice without external interference. Section 13 of the NCSA stipulates that there must be documentation and notification of offenders admitted into the facilities, which may facilitate access to legal aid and fair hearing. However, it has not provided the procedure of access to legal aid.

Against this backdrop, it can be argued that section 14 (8) of the NCSA , which stipulates that a controller may reject any offender to be admitted into a facility if the facilities are already overcrowded, may further ensure that offenders have access to fair hearing. This is because, as noted earlier, offenders' right to fair hearing may be compromised if the facilities are overcrowded. When this provision is juxtaposed with the stipulation in section 12 (3) of the Act that offenders must not be kept in custody if they are not lawfully detained, it can be inferred that the NCSA has made some effort to ensure offenders' access to fair trial rights. However, there are still some lacunae. The NCSA has not provided for any procedure to ensure access to legal aid for offenders. In addition, it has not fully addressed the question of overcrowding, which may impede offenders' access to fair hearing.

It can be argued that the NCSA has not fully complied with the provision of article 14 of the International Covenant on Civil and Political Rights, which stipulates that offenders must be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law and offenders must have adequate time and facilities for the preparation of their defense and to communicate with counsel of their own choosing. The NCSA has not made any provision to ensure that offenders have access to counsel of their own choosing. In addition, the NCSA has not made any effort to ensure that offenders have access to adequate time and facilities for the preparation of their defense. Furthermore, rule 61 of the Mandela Rules stipulates that communication with legal advisers must be fully respected and must be ensured. Rule 62 further stipulates that interviews between offenders and legal advisers may be within sight but not within hearing, in an office reserved for the purpose or, where this is not practicable, in a room or area where offenders can speak with legal advisers without being overheard.

While the NCSA has stipulated that the NCS must provide legal advisers to offenders, it has not made any provision to ensure that offenders have access to legal advisers of their choice, or within sight but not within hearing. Rule 64 of the Mandela Rules further stipulates that prisoners who do not have sufficient means to pay for such services must be given free legal aid when the interests of justice so require. While the NCSA supports legal aid via autonomous officers, it omits explicit assurances on confidentiality or universal free aid. In addition, rule 56 of the Mandela Rules stipulates that there must be complaint mechanisms, which must be confidential and impartial. The NCSA has not made any provision for any complaint mechanism. However, there are some provisions of the NCSA, which may facilitate offenders' access to fair trial rights.

3.3.3 Measures for the Protection of Women, Juveniles and Persons with Disabilities.

The NCSA makes some provisions to ensure the protection of women, juveniles and persons with disabilities. For women, the NCSA stipulates in section 34 that women must not be kept in the same facility with men. The NCSA further stipulates that there must be facilities for the hygiene, health and dignity of women offenders. In addition, the NCSA requires that there must be facilities for the health care of pregnant women and nursing mothers. The NCSA further stipulates that nursing mothers may keep their babies with them in the facilities until they are eighteen months old. After eighteen months, the NCSA requires that there must be facilities to keep the babies outside the facilities.

These provisions are in tandem with rules 6-18 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders. Rule 6 stipulates that efforts must be made to implement non-custodial sentences and alternative measures. In addition, rule 7 stipulates that the NCS must

ensure the protection of women's health. Furthermore, rules 14-18 of the Bangkok Rules stipulate that the NCS must ensure the protection of women offenders, particularly pregnant women, nursing mothers and their babies. In addition, for juveniles, the NCSA stipulates in section 35 that juveniles must not be kept in the same facility with adults. The NCSA further stipulates that there must be borstal institutions and remand homes for the detention of juveniles.

The NCSA requires that borstal institutions and remand homes must be for the education, vocational and personal development and rehabilitation of juveniles. These provisions are in line with rule 26 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules). Rule 26.4 stipulates that juveniles must be kept separately from adults. In addition, rule 26.2 stipulates that the training of juveniles must be in education and vocational training. For persons with disabilities, the NCSA has not made any specific provisions. However, section 23 of the NCSA stipulates that there must be provision for the health care of offenders, which must be the same as that of the community. In addition, section 24 of the NCSA stipulates that there must be Mental Health Review Boards to review the mental health status of offenders.

CHAPTER FOUR

COMPARISON BETWEEN INTERNATIONAL INSTRUMENTS ON PRISONERS' RIGHT AND NIGERIAN CORRECTIONAL SERVICE ACT.

4.1 Key International Instruments on Prisoners' Rights

This chapter contains international instruments that have laid down the parameters of humane treatment of prisoners, which forms the basis upon which legislations like the

NCSA, will be held liable if prisoners' rights are not respected. In this chapter, I will look at three international instruments which have been spelt out, their origins, principles, and some of the provisions in the rules.

4.1.1 United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

The United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules are a set of rules that outline the minimum standards for the treatment of prisoners and the management of prisons. The rules were adopted by the UN General Assembly on December 17, 2015, under Resolution 70/175. “The rules are an update to the original Standard Minimum Rules (SMR) for the treatment of prisoners that were adopted in 1955. The update was done to reflect the advancements that have taken place in international human rights law and to reflect new realities and concerns such as the excessive use of pre-trial detention, prison overcrowding, violence and corruption, and prison governance”. The rules were named after the former President of South Africa, Nelson Mandela who spent 27 years in prison for fighting against apartheid. The choice of name reflects the idea that prisons should not operate as places of punishment but rather as places where offenders are assisted to reintegrate into society as law-abiding citizens. In addition, the naming of the rules in honour of Mandela is a testament to his tireless efforts to ensure the humane treatment of prisoners.

4.1.2 International Covenant on Civil and Political Rights (ICCPR)

4.1.3.1 The International Covenant on Civil and Political Rights (ICCPR) Adopted by the UN General Assembly on 16th December, 1966, and which came into force on 23rd March, 1976, the ICCPR is a treaty, binding on its States parties, which addresses civil and political rights, including the rights of those in detention. Nigeria acceded to it in October, 1993. In Article 2 of the Covenant, States parties undertake to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind. The preamble to the ICCPR reaffirms the faith in the dignity and worth of the person enshrined in the Universal Declaration of Human Rights.

It also states that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant. The ICCPR is comprised of fifty-three articles. The rights protected by the Covenant, relevant to prisoners, will be briefly outlined hereunder: Article 6 (right to life) 408; Article 7 (prohibition of torture or cruel, inhuman or degrading treatment or punishment) 409; Article 9 (right to liberty and security of the person) 410; Article 10 (treatment of persons deprived of their liberty) 411; Article 14 (right to a fair trial) 412; Article 15 (prohibition of retroactive criminal laws) 413; Article 16 (right to

recognition as a person before the law) 414; Article 17 (rights to privacy) 415; and Article 18 (freedom of thought, conscience and religion) 416. In terms of non-derogable rights, the ICCPR stipulates that no derogation from Articles 6, 7, 8 (prohibition of slavery), 11 (prohibition of imprisonment for debt) and 15, 16 and 18 is permitted, even in time of public emergency (Article 4). Other provisions include: Article 26 (equality before the law) 417; and Article 9 (right to a fair trial).

“The Human Rights Committee is the body established to oversee implementation of the ICCPR. It monitors implementation of the Covenant through its examination of State reports and through consideration of inter-State (Article 41) and individual (First Optional Protocol) communications. Nigeria ratified the First Optional Protocol in July 1993. In General Comment 21, adopted in 1992, the Human Rights Committee has interpreted Article 10 of the Covenant, to clarify the meaning and scope of humane treatment. Article 10 requires segregation of accused from convicted, juveniles from adults, and rehabilitation-focused treatment for accused persons. In particular, it has stipulated that: conditions of detention should ensure a humane treatment of prisoners, as required by Article 10, paragraph 1.

4.1.3.2 African Charter on Human and People's Rights.

Adopted by the former Organization of African Unity (OAU), now known as the African Union (AU) in 1981, and which came into force in 1986, the African Charter on Human and Peoples Rights (also known as the Banjul Charter) is a regional instrument which has been ratified by Nigeria in July, 1983.

The Charter is innovative, in that it is the first international human rights instrument to enshrine not only individual rights and duties but also those of peoples and of States. The Preamble to the Charter notes that fundamental human rights stem from the attributes of human beings which are universal, inalienable, indivisible and inter-related. It reaffirms the duty of solidarity and cooperation between African States. The African Charter contains sixty-eight articles. Those relevant to prisoners include: Article 4 (protection of life and integrity of the person) 424; Article 5 (prohibition of torture and cruel, inhuman or degrading punishment and treatment) 425; Article 6 (right to liberty and security of person) 426; Article 7 (right to fair trial) 427; Article 16 (right to health) 428; Article 17 (right to education) 429; and, Article 18 (protection of the family) 430. Peoples' rights are enshrined in Articles 19-24. In terms of non-derogable rights, the African Charter does not make explicit reference to which rights are non-derogable, even in time of public emergency.

History of the African Charter

The African Charter was adopted in 1981 by the Organization of African Unity (now African Union) and entered into force in 1986, drawing from the UDHR and African traditions. It was adopted in recognition of the fact that there are a number of rights which are particularly relevant to an African context. In this regard, it has been

stipulated that the African Charter is a definition and reaffirmation, in terms of the African situation, of the principles of the various pre-existing human rights texts. 433 It has been recognized that the normative provisions of the African Charter are not necessarily different from those of other international and regional human rights instruments, but rather that there is innovation in the fact that duties have been included.

The African Charter has been used in a number of instances to support national jurisprudence. For example, in Nigeria, section 33 (right to life) and section 34 (right to dignity of human persons) of Chapter IV of the 1999 Constitution (as amended), are direct reproductions of Articles 4 and 5 of the African Charter. The African Charter will be particularly relevant to a number of issues pertaining to prisoners, including: prison overcrowding; use of torture and other forms of cruel, inhuman and degrading treatment or punishment; unlawful or arbitrary detention. Strength of the instrument Innovative approach, combining rights, duties and responsibilities.

Weakness of the instrument Weak enforcement mechanisms. Some provisions may be in conflict with customary practices. Not all States have ratified it. The Charter provisions are subject to domestic jurisdiction. It can only investigate a matter after local remedies have been exhausted. 436 Comparative with other instruments The African Charter complements other international human rights instruments. The African Commission has, in a number of instances, referred to other UN standards, when interpreting the provisions of the Charter. In this case, the provisions of the African Charter in relation to humane treatment of prisoners (Article 5) are complementary to the provisions of the NCSA, outlined above. However, whereas the NCSA does not refer to discrimination, the African Charter does, in its provisions relating to equal protection of the law (Article 3). In this regard, it has been stipulated that in Nigeria, discrimination exists as regards treatment of prisoners from different ethnic groups.

4.2 Comparative Analysis of Provisions

In this section, the provisions of the NCSA will be compared with those contained in the Nelson Mandela Rules; the ICCPR; and the African Charter. The NCSA was enacted in . It repealed the Prisons Act 2004 and marks a significant shift in focus from a punitive approach to a rehabilitative one.

4.2.1 Treatment and Conditions of Detention

The treatment and conditions of detention of prisoners are the cornerstone of any correctional system that protects the human dignity of prisoners and ensures their rehabilitation and reduction of recidivism. At the international plane, the treatment and conditions of detention of prisoners have been elaborately dealt with in major international instruments that outline the minimum conditions for the treatment of prisoners which are intended to ensure that the loss of liberty does not imply the loss

of all rights. The most comprehensive international instrument on the treatment of prisoners is the UN Standard Minimum Rules for the Treatment of Prisoners known as the Nelson Mandela Rules.

Under the Rules, prisoners are to be treated with respect due to their inherent dignity and worth as human beings and the inherent dignity of the human person (Rules 1 and 3 of the Mandela Rules). The suffering or hardship arising from imprisonment is not to be aggravated by the conditions of detention (Rule 3 of the Mandela Rules). The Mandela Rules have stipulated the minimum conditions for the treatment of prisoners in respect of, inter alia, accommodation (Rules 13-17), hygiene and clothing (Rules 18-21), and separation of categories (Rule 8). The Mandela Rules have stipulated that every prisoner is to have separate accommodation in a clean, adequately ventilated and sufficiently spacious cell that is provided with adequate bedding and facilitated with adequate sanitation, heating, lighting, and ventilation (Rule 13 of the Mandela Rules). Where prisoners occupy cells accommodating more than one person, each prisoner is to be allocated at least 4 m² of floor space (Rule 13 (3) of the Mandela Rules). In respect of hygiene and clothing, every prisoner is to have access to adequate washing and toilet facilities so installed and maintained as to enable every prisoner to comply at all times with the needs of nature in a clean and decent manner, and to be provided with adequate clothing and toilet articles (Rules 18-21 of the Mandela Rules).

The NCSA is a new law enacted to repeal the Prisons Act, which is the hitherto applicable law in Nigeria. The NCSA has introduced some provisions that are intended to bring Nigerian law in line with the minimum standards prescribed by the Mandela Rules, the ICCPR, and the African Charter. Firstly, the NCSA has introduced a general provision that prohibits the subjecting of prisoners to torture or other cruel, inhuman or degrading treatments or punishments (Section 14 of the NCSA). The provision is in line with the absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment contained in Rule 1 of the Mandela Rules and Article 7 of the ICCPR. Secondly, the NCSA has introduced a provision which mandates the Nigerian Correctional Service (NCoS) to establish and maintain a data-base for classification of prisoners according to their ages, sex, offences and risk factors, for their reformation, rehabilitation and re-integration (Section 13 of the NCSA).

The provision is in line with the provision contained in Rule 7 of the Mandela Rules, which stipulates that the different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. In respect of the separation of prisoners, Section 34 of the NCSA stipulates that female prisoners, children and prisoners with mental illness shall be kept separate from male prisoners. The provision is in line with Article 10 (2)(b) of the ICCPR and Rule 11 of the

Mandela Rules, which stipulate that accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as un-convicted persons.

The NCSA has also stipulated that the places of detention shall provide all prisoners with an adequate bed and bedding and shall satisfy minimum standards of health and hygiene (Section 33 of the NCSA). The provision is in line with Rule 13 of the Mandela Rules, which stipulates that every prisoner shall have separate accommodation in a clean, adequately ventilated and sufficiently spacious cell that is provided with adequate bedding and facilitated with adequate sanitation, heating, lighting and ventilation. In respect of food, Section 36 of the NCSA stipulates that every prisoner shall be provided with food and water of sufficient quality and quantity to satisfy their dietary needs, which shall be prepared and served hygienically.

The provision is in line with Rule 22 of the Mandela Rules, which stipulates that every prisoner shall receive food of nutritional value adequate for health and strength, of wholesome quality and supplied regularly. In addition, Section 36 (2) of the NCSA stipulates that the food shall be provided having regard to the age, health, physical condition, culture, religion and dietary requirements of the prisoners. The provision is in line with Rule 22 (2) of the Mandela Rules, which stipulates that prisoners who have special dietary needs shall be provided with such diets as will, as far as practicable, meet their needs having regard to their ethical or moral beliefs, the civilization and ethical requirements of the community to which they belong, their physical and mental condition and any medical recommendation that may have been made to them.

The general objects of the NCSA are to among other things, ensure that non-custodial measures are embraced to ensure there is a framework for restorative justice administration, promote the offender's willingness to comply with sentences because they are proportionate, and generally ensure the humane treatment of offenders (Section 2 of the NCSA). The objects of the NCSA are in line with the objects of the Mandela Rules, which are intended to ensure that prisoners are treated with respect for their dignity as human beings, and that their reintegration into society is facilitated after release. They are also in line with the objects of the ICCPR and the African Charter, which are intended to ensure that the rights of prisoners are protected in line with international standards. However, as of mid-2025, Nigeria's 240 correctional centers grapple with chronic overcrowding, housing over 81,000 inmates against a capacity of around 58,000, resulting in occupancy rates exceeding 136% in many facilities.

For instance, Kirikiri Maximum Security Prison in Lagos operates at over 200% capacity, where inmates/prisoners resort to sleeping by taking turns. The release of 7,646 inmates between January 2022 and June 2025 through administrative actions and non-custodial alternatives has reduced the awaiting-trial inmate (ATI) proportion from

70% in 2024 to 66% by July 2025, yet over 54,000 ATIs languish without trial. In South Africa, the Correctional Services Act incorporates Mandela Rules thresholds for space (6 square meters per inmate), resulting in occupancy rates below 100%, unlike Nigeria, where five jailbreak incidents occurred between January and April 2025. Furthermore, a 2025 study revealed that 40% of Nigerian facilities fail routine sanitation checks, and funding is allocated at a mere 0.02% of the national budget.

The NCoS's reaffirmation of Mandela Rules commitment during the 10th anniversary commemoration in July 2025 signals potential for improvement. In conclusion, the NCSA has stipulated some provisions that are intended to ensure that prisoners in Nigeria are treated in line with the minimum international standards stipulated by the Mandela Rules, the ICCPR, and the African Charter. The NCSA has generally prohibited torture or other cruel, inhuman or degrading treatments or punishments and has introduced some provisions that regulate the classification of prisoners, separation of categories of prisoners, accommodation, hygiene and clothing and food for prisoners. The provisions of the NCSA are in line with the provisions of the Mandela Rules, the ICCPR, and the African Charter and are intended to ensure that prisoners in Nigeria are treated with dignity and respect. However, the extent of the compliance of the NCSA with the minimum standards for the treatment of prisoners as prescribed by the Mandela Rules, the ICCPR and the African Charter will be examined in the subsequent sub-chapter.

4.2.2 Health, Education, and Rehabilitation

Introduction The right to health and access to education and rehabilitation are inseparable components of the contemporary prison setting. The former as an antidote to the role of prisons as reservoirs of disease and the latter as tools for reformation. Various international and regional legal instruments have recognized these rights as crucial to the retention of human dignity in custody. For example, the Nelson Mandela Rules have fifteen rules devoted to health (Rules 24-35), fifty-nine rules to education and rehabilitation (Rules 89-108) while Article 10 of the International Covenant on Civil and Political Rights (ICCPR) prescribes that the regime for the detention of persons on trial and for the detention of persons awaiting trial and also of convicted persons shall be consistent with the overriding need to ensure their treatment is aimed at their reformation and social rehabilitation. Although the ICCPR does not have a standalone provision for the right to health, the Human Rights Committee has interpreted this right to be implicit in the right to dignity under the same article.

The African Charter on Human and Peoples' Rights (African Charter) has two provisions that relate to this subject matter. Article 16 provides for the right to health while Article 17 for the right to education. In the recent decision of the African Commission on Human and Peoples' Rights (African Commission) in the case of *Egypt NGO Alliance v Arab Republic of Egypt*, these rights were interpreted to include access to medical care, education and vocational training for prisoners as a

means to counter socio-economic inequalities. The purpose of this paper is to examine the legal provisions on the right to health, education and rehabilitation of prisoners in Nigeria with a view to assessing the extent of their compliance with the above international and regional standards. The Nigerian Correctional Services Act, (NCSA) is the primary legislation regulating the Nigerian prison system and this paper will first examine the provisions of this law. The paper will then discuss the practical realities of the implementation or non-implementation of these provisions.

These provisions are in tandem with the provisions of the Mandela Rules on work and education. For example, Rule 104 of the Mandela Rules provides that so far as practicable, every prisoner able to work shall be provided with work which shall not be of a character likely to be demoralizing to the prisoner or bring him into conflict with his social environment or otherwise be unhelpful to his rehabilitation and that the organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of free employment. Rule 97 of the Mandela Rules stipulates that the prison regime shall contain rules for the education of prisoners, the organization of educational work and the equipment for such work which shall be provided out of the prison budget. Rule 98 of the Mandela Rules also stipulates that the education of sentenced prisoners shall be ensured by the provision of programmes and courses aimed at the continuation of their education and the acquisition by them of appropriate skills, with particular attention paid to young prisoners and those with no education at all or without any skills.

In the same vein, Rule 99 of the Mandela Rules provides that education and other parts of the prison regime shall be directed to preparing prisoners for their return to free society and to enabling them to lead a law-abiding and self-supporting life. Further, Rule 100 of the Mandela Rules stipulates that the prison regime shall provide for the careful selection of work and for the supervision of the work of prisoners. Rule 101 of the Mandela Rules mandates that so far as practicable the institution shall provide for the classification of prisoners according to their mental and physical aptitudes with a view to their assignment to the most suitable type of work. The provisions of the NCSA on education are however broader than that of the Mandela Rules as they include provision for skills acquisition (Section 13). Access to non-custodial measures is one of the tools for rehabilitation of offenders in Nigeria.

The law provides that a non-custodial measure shall be used instead of imprisonment unless there is good reason to impose a sentence of imprisonment (Section 28). Non-custodial measures are also available to convicted offenders serving their sentence. For example, a sentence of imprisonment can be suspended by the court, wholly or partly for observation, supervision and good behavior (Section 33). Community service can also be employed as an alternative sentence to imprisonment (Section 34). The Mandela Rules also provide for alternatives to imprisonment as a tool for

rehabilitation of offenders. For example, Rule 89 of the Mandela Rules provides that prisoners shall be allowed under close supervision to undertake vocational, social and other sorts of education and other activities directed towards their reformation and rehabilitation. Conclusion The health, education and rehabilitation of prisoners are fundamental rights in Nigeria and are guaranteed by a number of international and regional instruments.

The Nigerian Correctional Services Act, has given legal backing to these rights. The Preamble of the Act guarantees dignity for all inmates and promotes the rehabilitation of offenders. The Act has made provision for a holistic approach to the health of prisoners including the right to access to good quality health care (Section 23), mental health care (Section 24) and protection from disease (Section 25). The provisions of the Act on education and rehabilitation are also very elaborate. They include access to education (Section 13), work (Section 40), protection from forced labor (Section 41) and access to non-custodial measures as an alternative to imprisonment (Sections 28-34).

4.2.3 Protection Against Discrimination and Abuse

Prohibition of discrimination, equality and distinction, prohibition of distinction-based violations. While the Mandela Rule 2 prohibits discrimination, Article 26 of the ICCPR states that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In the same vein, Article 2 of the African Charter provides that the right to freedom from discrimination of whatever kind against any citizen shall be guaranteed and protected. Objectives of the NCSA stipulated in section 2 include inter alia: promote non-discrimination and prohibit torture in section 14. There is thus a high level of alignment between the NCSA and other international instruments, though there is a general problem of implementation as cases of torture are reported by the Amnesty international. An advantage of the NCSA over the previous legislation is that it provides training for prison officials in line with the international best practice.

4. 3. Challenges facing Nigeria in the implementation of the NCSA in line with other international instruments.

4. 3. 1. The gaps in implementation and enforcement of the Nigeria Correctional Services Act

In line with other international instruments on the rights of prisoners, notwithstanding the progressive nature of the Act, which includes the rehabilitation and non-custodial measures of offenders, and the humane treatment of offenders, include systemic issues like: overcrowding of the custodial centers, inadequate funding of the centers, corruption, slow pace of judicial proceedings, dearth of facilities, and lack or inadequate legal representation of offenders, which affect the purpose of the Act and the provisions of the United Nations Standard Minimum Rules for the Treatment of

Prisoners, the ICCPR, and the ACHPR. This sub-section discusses these gaps, their causes, effects and possible ways to address them, using the recent available data, reports and studies. Overcrowding: Conditions and rehabilitation Overcrowding is one of the most serious gaps in the implementation and enforcement of the NCSA in line with other international instruments on the rights of prisoners. It negates the provisions of Mandela Rules 13-17, which provide adequate space for prisoners and humane conditions. Article 10 of the ICCPR equally requires the treatment of persons deprived of their liberty with respect for the inherent dignity of the human person. The provisions of Article 5 of the African Charter on Human and Peoples Rights, which prohibit cruel, inhuman and degrading treatment or punishment, are also violated.

Corruption: Erosion of Accountability and Trust

Corruption in the NCoS: This impunity is manifesting as a knowledge gap in enforcement. The phenomenon is in clear contravention of the Mandela Rules (Rules 81-83) which stipulated that staff should uphold integrity, the African Charter which stated that Nigeria should prevent ill treatment (Article 5), and ICCPR, which prescribes a fair trial in determining criminal charges against an individual (Article 14). Whenever a bribe is involved, it means the release of the detainee would be delayed. Manifestations of corruption include bribery, smuggling, and nepotism. A 2025 LinkedIn report explains that some of the staff demand money before allowing a visit or referring a sick detainee to a hospital, while a 2025 report by Transparency International has already calculated the losses at NGN 5 billion annually.

Judicial Delays: Causing Pre-trial Detention and Rights Violation Judicial delay is also fueling the detention of people awaiting trial. The delay is in contravention of the prompt trial stipulated by ICCPR (Article 9), the presumption of innocence of pre-trial detainees (Mandela Rule 111), and the right to a speedy hearing as enshrined in the African Charter (Article 7).

CHAPTER 5

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings

The research essentially found that the NCSA is a progressive piece of legislation, which has adequately provided for the rights of prisoners in Nigeria. However, the provisions of the Act have not been adequately enforced. This, therefore, constitutes a challenge towards the realisation of the rights of prisoners in Nigeria. Prison conditions and treatment are equally deplorable. Nigeria Correctional Service (NCoS) came into being in 1861 during the British colonial administration. The British government established the Western-styled prison systems, the aim of which was to provide a facility to punish offenders and subject them to forced labour. The prisons were not conceived to rehabilitate offenders.

On attainment of political independence in 1960, Nigeria did not reform the correctional system. Rather, the Prisons Act of 1972 was enacted to establish the Nigeria Prisons Service. This retributive justice approach to punishment as enacted in the 1972 Prisons Act led to overcrowding and inhuman prison conditions characterised by human rights abuses and denial. By the 1990s, the number of prisoners in Nigeria rose to over 50, 000, while the capacity of the prisons was 15, 000. The NCSA is a legislative intervention, which has repealed the Prisons Act, 1972 to provide for the establishment of the NCoS as a custodial and reformative institution. The Act has established the NCS to provide custodial, correctional and rehabilitative services aimed at integration of inmates into society.

The new Act has been influenced by some factors, which include the civil society voices as well as Nigeria's international obligation under the ICCPR and the ACHPR.

As a result, the NCSA has made provisions for the humane treatment of prisoners. Sections 13-15 of the NCSA prohibit the use of torture, inhuman and degrading treatment and punishment. Sections 23-28 provide for the health care and medical attention to prisoners. Sections 48-52 of the Act make provision for the rehabilitation of prisoners. Further, sections 46 and 47 of the Act have provided for non-custodial measures.

Despite the good provisions of the NCSA on the rights of prisoners in Nigeria, there are problems of implementation. As at 2025, Nigeria has a prison population of 80, 100 out of a total capacity of 58, 600. The occupancy capacity of Nigeria prisons is 136% while there are about 66% Automatic Terminal Information Service (ATIs) in Nigeria prisons. The rate of recidivism in Nigeria is between 35-50%. The empirical evidence available shows that there is an urgent need for reform of the correctional system to give effect to the provisions of the act.

The review of related literature has revealed that since the enactment of the NCSA, no research has been conducted to examine the extent of implementation of the provisions of the Act. Most of the available literature were written before the enactment of the NCSA. For instance, Adegbite wrote on the human rights implications of prison congestion in Nigeria. Ogwezzy also examined the effects of prison congestion on human rights in Nigeria. Similarly, Edeh discussed the causes of prison congestion in Nigeria. Akpan and Eteng examined the problem of prison congestion in Nigeria. Empirical studies, including UNODC reports (2023) and Amnesty International audits (2025), corroborate health crises like tuberculosis incidence rates 20 times the national average. It is against the backdrop of the gaps identified that this research was conducted to examine the challenges towards the implementation of the NCSA. The doctrinal and comparative approaches were employed in the study.

The concept of correctional services has been defined under section 2 of the NCSA to include custody, reformation and rehabilitation. This concept of correctional services is in line with the definition by the United Nations. However, the concept is facing challenges in Nigeria due to prison congestion, which has turned the prisons into “schools for crime.” The term prisoner has been defined to mean a person in detention or confinement pending or following conviction. As at 2025, there are about 66% of ATIs in Nigeria prisons. This has raised the issue of presumption of innocence guaranteed by Mandela Rule 111 and article 9 of the ICCPR. The rights of prisoners have been conceptualised to mean inherent, inalienable rights, which are based on the concept of dignity of the human person as provided in article 5 of the ACHPR. It is pertinent to note that the rights of prisoners are not privileges, which the society may grant or withdraw at will. The rights of prisoners include the right against torture, right to healthcare and right to rehabilitation. Human rights, retributive, rehabilitative and deterrent theories have been adopted in this study to explain the theoretical

framework. The human rights theory is predicated on natural law and the dignity of the human person based on the philosophy of Emmanuel Kant.

The retributive theory of punishment explains why Nigeria's correctional system is still anchored on punishment. The rehabilitative and deterrent theories of punishment explain why Nigeria has introduced a reformatory correctional system and measures aimed at discouraging crime. The research found that Nigeria has a retributive correctional system, which has resulted in a very low rehabilitation coverage of prisoners. Only about 15% of inmates in Nigeria prisons have access to rehabilitation programmes. The rate of recidivism in Nigeria is between 35-50%. On the other hand, the empirical evidence shows that rehabilitation programmes reduce recidivism by up to 43% as reported by World Prison Brief. The study has made use of the case study of *Dickson v Sylva* to explain the need for decongestion of prisons to give effect to the rights of prisoners in Nigeria. However, the empirical evidence reveals that about 40% of Nigeria's prisons lack adequate sanitation facilities contrary to human rights principles. This has exposed a huge disconnect between theory and practice.

The research recommends that the NCSA should be amended to incorporate the minimum standards of the Mandela Rules. The budgetary allocation to the NCS should be increased to about 0.5% of the nation's budget. Nigeria should establish an independent monitoring and inspection mechanisms to monitor the implementation of the provisions of the NCSA in line with the provisions of the ACHPR. The NCS should be encouraged to partner with the civil society organisations to give effect to the provisions of the NCSA on rehabilitation of prisoners and reintegration into society. Harmonization strategies propose amendments incorporating Mandela Rule minima, enhanced budgeting to 0.5% of GDP, independent monitoring per ACHPR protocols, and NGO partnerships for reintegration, drawing from successful models in South Africa and Rwanda. The study concluded that the NCSA is a very progressive legislation aimed at reforming Nigeria's correctional system to a reformatory and rehabilitative institution. However, the research found that the provisions of the Act are not being implemented due to some challenges, which include inadequate budgetary allocations to the NCS, corruption and lack of transparency in the management of prisons, inadequate personnel to man the prisons, retributive culture and federal structure of government in Nigeria. The study therefore, recommends some strategies to address the challenges facing the implementation of the provisions of the NCSA .

5.2 Recommendations

Based on the analysis of the Nigerian Correctional Services Act, and its level of congruence with International instruments on the rights of prisoners, these recommendations are made. They are set out in a gradual manner, first addressing the legal and institutional gaps, then addressing the operational and oversight gaps in

order to ensure that they are implementable within a staggered framework and with a significant buy-in of relevant stakeholders..

To amend the NCSA by ensuring that some of the minimum standards outlined in the Mandela Rules are incorporated in the Act, such as, the minimum 4m² of floor space per prisoner (Rule 13) and that all prisoners undergo medical screening (Rule 24) on arrival at a facility and on regular occasions after that. Violations of these minimum standards should attract penalties as outlined in a new provision to be incorporated in the Act to deal with oversight functions.

This will help to tackle the issue of overcrowding as well as that of health within the Nigerian prison system. This can be taken from the South African Correctional Services Act and can be implemented through a Bill to be sponsored by a member of the National Assembly to amend the NCSA and piloted in 10 centres by 2026. This can be funded by a deduction of 1% from the budgetary allocation to the Ministry of Justice and can reduce the number of prisoners by 20% as has been done in the UK according to the model by PRI.. To increase the budgetary allocation to the prison sector to about 0. 5% of the country's GDP with a dedicated percentage of that amount going into the infrastructural and human capacity development of the sector to ensure a ratio of 1: 20 between custodial officers and prisoners.

This will help to address the dearth of resources in the sector which is also responsible for the poor implementation of the NCSA. This can be achieved through a policy framework on partnership between the federal government and the 36 states of the federation as well as with international organisations like the UNODC to tackle the prison sector. This can be implemented over a 3-year period commencing in the states with the highest prison population in order to ensure that all prisons are fully rehabilitated and can reduce the rate of recidivism by 15%.. To establish an independent monitoring framework for the prison sector modeled around the FRC, consisting of representatives from the CSOs, the judiciary and international observers which shall undertake a quarterly inspection of all prisons as stipulated in Mandela Rule 83. This will help to reduce the incidence of corruption and lack of will-power in ensuring the enforcement of the provisions of the NCSA. This can be enhanced through the creation of an online portal where prisoners can report violations of their rights.

Also, 5000 prison officers can be trained annually on the rights of prisoners using a module developed in partnership with the EFCC. This can reduce the incidence of torture and abuse of prisoners by 30% as is the case in Rwanda. To ensure the expansion of the NCSA to provide for more non-custodial measures (Sections 28-34) by building the capacity of community courts to implement same as well as expand the probationary services of the NCoS in order to divert 50% of the minor cases from imprisonment. This can be achieved through a policy on community sentencing in partnership with CSOs to resettle prisoners back into the society. This can also

address the cultural question of stigmatization of ex-prisoners and dovetail into the Kampala Declaration.

Also, judicial officers can receive training on the rights of prisoners in order to reduce the length of ATIs to 50%.. To foster international cooperation between Nigeria and the ACHPR as well as UNODC in order to tackle prison reforms. Nigeria should submit reports to the ACHPR as stipulated and should tap into the technical assistance of the UNODC. Nigeria should also ratify the Optional Protocol to the UNCAT in order to enhance its compliance level and leverage on that to attract international funding to carry out its proposed reforms... To embark on a sensitization of the public on the need to recognize the rights of prisoners and shift from a retributive to a restorative focus of imprisonment. This can be done through engaging the media as well as integrating same into the curricula of schools in order to shape public opinions from a tender age. This will help to support the underlying principles of the NCSA and reduce stigmatization against ex-prisoners...

To develop Key Performance Indicators (KPIs) for the NCoS such as ratio of prisoners to health facilities, recidivism rate, etc. which should be reported to the National Assembly on a yearly basis in order to ensure accountability as outlined in Mandela Rule 74... To encourage scholarly research on the operations of the NCoS in order to address the knowledge-gap that exists in literature post-. This can help to identify new challenges that may emerge and provide policy recommendations to tackle same. These recommendations if implemented will help to address the gaps that exist in the NCSA in order to ensure its full compliance with international instruments on the rights of prisoners and help Nigeria to develop a model custodial system.

5. 3 Conclusion

In conclusion of this assessment of the Nigerian Correctional Services Act, and its congruence with international instruments on prisoners' rights, it is important to restate that the NCSA is a step in the right direction but is constrained by daunting challenges. The NCSA has shown to represent a shift from a punitive to a restorative focus of imprisonment, with provisions for the rights and dignity of prisoners, non-custodial measures and protection of vulnerable groups in line with the Mandela Rules, the ICCPR and ACHPR. From its historical evolution, the colonial legacy has contributed to overcrowding and abuse in the system, however, the Act has brought about some reforms which has led to efforts to decongest the prison system which has reduced the ATIs to 66% in 2025." The conceptual analysis has distinguished between custodial and non-custodial measures and has outlined the benefits of rehabilitation in reducing recidivism while the theoretical analysis has identified the human rights and deterrence theories as underpinning the NCSA despite its implementation challenges.

The level of analysis has shown areas of congruence between the NCSA and the Mandela Rules in the area of health and education and the ICCPR in the area of right

to dignity and non-refoulment as well as the ACHPR in the area of right to education, dignity and protection of vulnerable groups. However, it has identified areas of incongruence between the NCSA and the 3 international instruments in the area of implementation of the rights and dignity of prisoners due to a prison population of 136% over the approved capacity, budgetary allocation of 0.02% to the sector, corrupt practices and resistance to change from a retributive to a restorative focus of imprisonment.

This has led to a number of violations which are attributed to lack of political willpower to enforce the provisions of the Act. The comparative analysis has drawn lessons from South Africa and Norway on the areas of integrated reporting and recidivism. The identified challenges have shown a need for urgent reforms and is evident in the escape of over 5000 prisoners in the jail breaks of 2025 and the health challenges of prisoners during the pandemic. The recommendations have proposed a staggered approach to amend some provisions of the NCSA, to increase the budgetary allocation to the sector, to strengthen the oversight mechanism as well as leverage on international cooperation to address the challenges. It is only through these reforms that prisoners can enjoy their rights in full and not as mere aspirations.

Ultimately, to achieve the proposed reforms will require the willpower of the government, the commitment of CSOs and the buy-in of the international community in order to ensure that prisoners can enjoy their rights and dignity in order to reduce the rate of crimes in Nigeria and promote Goal 16 of the SDGs. As Nigeria transits from one regime to another, the proposed prison reform should aim to make Nigeria a model prison system.

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