

PATHWAYS TO REFORMING PRE-TRIAL DETENTION IN NIGERIA: PPDC'S ACCESS TO JUSTICE CONTRIBUTIONS

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Abstract

This paper examines the use of pretrial detention in Nigeria's Criminal Justice Sector. An average of 65-70% of the inmates are awaiting trial. This exceeds those convicted of committing crimes. Many pretrial detainees either have no access to lawyers or may never get to court. This paper examines the legal framework for pretrial detention, analyses the efforts of previous interventions and discusses the current interventions implemented by the Public and Development Centre in Nigeria. The paper proposes recommendations including the effective use of corps lawyers, law clinics, technology and administrative improvements to cause a reformation in pretrial detention in Nigeria.

Keywords: *Inmates, custodial centre, awaiting trial, criminal justice, law clinics, Nigeria, pretrial detention, pro bono legal service*

1.0 Introduction

Nigeria is facing an astronomical crisis with the use of pretrial detention. There is a weakness in its criminal justice system so the number of pretrial detainees is overrunning the capacity of the custodial centres run

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by the Nigerian Correctional Service,¹ and these detainees awaiting trial outnumber those convicted of crimes.² It is pertinent to point out that pretrial detainees in Nigeria as classified by the Correctional Service are colloquially called “awaiting trial inmates” and would for the purpose of this paper may be used interchangeably with the expression *pretrial detainees*.

Broadly speaking, pretrial detainees include those persons that have been formerly charged to court but are awaiting the commencement of trial, detainees whose trial in court is ongoing but are yet to be concluded with a conviction or release, those detainees that have been convicted of a crime but have not been sentenced and lastly detainees who have been sentenced but undergoing an appeal process of their conviction.³ Whilst this definitions appears to involve the generally accepted individuals that can be termed as pretrial detainees, the Nigerian situation challenges this presumptive definition. For our purpose, those awaiting trial includes persons who are being held in the custody of the Police Force and other law enforcement agencies with or without a formal charge. Those detained in the custody of the correctional centres on a holding charge pending a review of formal charges to be filed against them; those detainees remanded in custody pending further investigation or arraignment in court and it is reasonable to include those arrested on *Friday, weekend, public holiday* following a police raid and subsequently lost in the criminal justice system.

In criminal justice, the Nigerian Correctional Service (NCOs) is a critical agency required by law to put all individuals duly certified by courts with competent jurisdiction into their custody. They are to present suspects and other inmates in court when the time comes, determine the reasons behind their antisocial behaviour, put systems in place for their education and rehabilitation, and oversee prison farms

¹ Stanley Ibe, ‘Arresting Escalating Pretrial Detention in Nigeria: Some Reform ideas’(2013) 2 African Journal of Clinical Education and Access to Justice 95, 102.

² https://www.corrections.gov.ng/statistics_summary accessed 16th February 2024.

³ Open Society Justice Initiative, *Presumption of Guilt: The Global Overuse of Pretrial Detention* (Open Society Foundations, 2014) 12.

and industries to help them become law-abiding members after they are released. In that process, they will generate money for the government.⁴ The NCOs has its custodial centres across different locations in the country, but it keeps up to date data on the number of inmates in its custody.⁵ From a public search on the NCOs portal on the 12th of February 2024, the total number of inmates was listed as 77, 552, whilst the number of convicted inmates was indicated to be 23,643. On the other hand, the awaiting trial inmates were 53,909. This indicates that about 70% of the inmate population in the custodial centres across Nigeria as those awaiting trial.⁶ This is a disproportionate number in comparison to those tried and convicted which is 30% of the inmate population. The inmates awaiting trials face more adverse situations within the confines of the custodial centres in comparison to convicted inmates serving jail terms. They face torture and persecution, loss of livelihood, income, and family life. These inmates also lack access to healthcare and education and denied access to rehabilitation and other corrective mechanisms provided within the system.⁷

The high number of awaiting trial inmates in comparison to convicted inmates suggests that the use of pretrial detention is abused. So far this has thrived due to poor coordination amongst criminal justice sector institutions, high country poverty ratio⁸, poor compliance with applicable legal frameworks, bureaucratic and administrative setbacks e.g. failure to implement non-custodial measures, low budgetary allocations to the judiciary, etc; creating a situation where awaiting trial inmates are forgotten by government, abused by the system, and subjected to inhumane treatment.

⁴ Nigeria Federal Ministry of Interior, <https://interior.gov.ng/nigeria-correction-service#:~:text=The%20Nigerian%20Correction%20Service%20is.in%20motion%20mechanisms%20for%20their>

⁵ https://www.corrections.gov.ng/statistics_summary accessed 16th February 2024.

⁶ *ibid.*

⁷ Stanley Ibe, 'Arresting Escalating Pretrial Detention in Nigeria: Some Reform ideas'(2013) 2 African Journal of Clinical Legal Education and Access to Justice 95, 97-98.

⁸ <https://nigerianstat.gov.ng/news/78#:~:text=In%20Nigeria%2C%2040.1%25%20of%20people,to%20the%20National%20MPI%202022>. Accessed 27 February 2024

In Nigeria, the dispensation of criminal justice creeps slowly for a number of reasons, (i) Judges are overburdened with cases and write in longhand (2) poor investigation by the police (3) poor case flow management by institutions within this sector such as the Police, Courts, Ministry of justices who exercise a great deal of autonomy on how fast they engage with each other (4) inadequate number of court rooms and infrastructure to support proceedings – some magistrate share court rooms (5) poor funding to the NCOs who usually lack fuel to transport inmates to court (6) delay in obtaining legal advice (7) administrative lapses in the registry amongst other.⁹ These reasons have contributed to turn the NCoS custodial centres into a dumping ground for pretrial detainees. This situation is exacerbated by loopholes in the criminal justice system. For instance, the law permits an arrest on suspicion of commission of crime and detention for a reasonable time typically only 48 hours thereafter a suspect must be brought to court.¹⁰ The 48 hours window might not be enough time for adequate investigation; thus, the police will ask the magistrate court to remand the suspect pending investigation and transmission of case file for legal advice from the Ministry of Justice. Secondly, as the magistrate courts receive the greatest number of criminal cases to handle, it also lacks jurisdiction to try capital offences, e.g., murder or rape; so, the default procedure is to remand the suspect into the custody of the NCos. In these two instances, the police investigate and transmits the case file to the Attorney General for legal advice on whether to prosecute or not.¹¹ *In the interim, a lot can happen- the case file might get lost, the investigating police officer might be transferred to another station, witnesses might not be forthcoming or lost memory of the event etc.* In practice, the Nigerian Police accuses the office of the Attorney General of delaying their legal advice, and the A.G accuses the police of poor investigation. Overall,

⁹ Dr Alewo Musa Agbonika, 'Delay in the Administration of Criminal Justice in Nigeria: Issues from a Nigerian viewpoint' (2014) 26 Journal of Law, Policy and Globalization 130, 131-135. [chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://core.ac.uk/download/pdf/234649906.pdf](https://core.ac.uk/download/pdf/234649906.pdf) accessed 21 February 2024.

¹⁰ Administration of Criminal Justice Act 2015 Section 293.

¹¹ *ibid*, Section 105.

the suspect who is remanded in the custody might stay there upwards of 3 or more years.¹²

Asides these gaps, poor interagency coordination and communication creates a conundrum in the criminal justice system. Firstly, from when cases are filed in court to when judgment is pronounced is lengthy.¹³ Secondly, the police and other law enforcement agencies exercise powers to detain persons in certain circumstances without challenge or recourse to their fundamental human rights. In Nigeria today, young men can be picked up and detained by the Police indefinitely without recourse to bail, or repercussion for the officer, a situation that brokered the End Sars riot in 2020.¹⁴ There is an abuse of the process of remand as people can be held in detention even after the time of the remand order has lapsed sometimes for an undefined length of time.

Notwithstanding, legal services are expensive even in Nigeria and out of the reach of the poor who are already marginalised in terms of income, education, access to healthcare and other necessities of life¹⁵ and are unable to challenge the breach of their human rights. The poor have no

¹² Open Society Justice Initiative, *Presumption of Guilt: The Global Overuse of Pretrial Detention* (Open Society Foundations, 2014) 26.

¹³ Ayoola Adekunle Dada, Akinola George Dosunmu and Godson Olu- Kehinde Oyediji, 'Criminal Justice System: The Nigeria Scenario' (2015) 3 (3) *International Journal of Social Science and Humanities Research* 437, 440-443 <https://www.researchpublish.com/upload/book/Criminal%20Justice%20System-2264.pdf> accessed 19 February 2024.

¹⁴ Osei Baffour Frimpong and Richmond Commodore, '#End SARS Youth Protest in Nigeria: Lessons and opportunities for Regional Stability', [2021] 1 *Wilson Centre African Program: The Southern Voices Network for Peacebuilding* <https://www.wilsoncenter.org/publication/endsars-youth-protests> accessed 17 February 2024; __Nigeria : Three years after #End SARS at least 15 protestors languish in Lagos Jail (October 20, 2023) <https://www.amnesty.org/en/latest/news/2023/10/nigeria-three-years-after-endsars-at-least-15-protesters-languish-in-lagos-jail/> accessed 17 February 2024.

¹⁵ Ayoola Adekunle Dada, Akinola George Dosunmu and Godson Olu- Kehinde Oyediji, 'Criminal Justice System: The Nigeria Scenario' (2015) 3 (3) *International Journal of Social Science and Humanities Research* 437, 440-443 <https://www.researchpublish.com/upload/book/Criminal%20Justice%20System-2264.pdf> accessed 19 February 2024.

money to afford bail or the services of a lawyer. This marginalised group make up the awaiting trial inmates. It is argued that those awaiting trial is not restricted to the numbers disclosed by the NCos because it doesn't include those persons in the custody of the Nigeria Police force or other law enforcement agencies where there are no accurate data or information system developed for such purpose like the NCOS. Hence the questions - why is pretrial detention thriving in Nigeria? and in what ways are measures being implemented to tackle this issue?

2.0 Legal and Institutional Framework for Criminal Justice System in Nigeria

Examining the situation of unlawful detention within Nigeria's criminal justice system reveals the need to address constitutional safeguards, legislative interventions, and existing challenges. The establishment and evolution of Prisons are governed by various statutes dating back to the colonial period, with the Prisons Ordinance of 1916 and other subsidiary legislation to what later became Nigeria Prisons Act Cap P29 LFN 20024. Over time the use of prisons has become outdated and with reform, it is now the Nigeria correctional service¹⁶ with a new set of objectives.¹⁷

The Nigerian Correctional Service comprises two main components. The first is the Custodial Service responsible for the safe, secure, and humane custody of legally incarcerated individuals. It involves transporting remand prisoners to and from courts using motorized formations, assessing inmates' anti-social behaviors and needs, developing appropriate correctional treatment methods for reformation, rehabilitation, and reintegration, and implementing programs to facilitate inmates' successful reintegration into society. The other is the Non-custodial Service, administering non-custodial measures such as community service, probation, parole, and restorative justice. It also ensures compliance with court orders issued by competent jurisdiction.

¹⁶ Nigeria Correctional Service Act No 9 2019

¹⁷ On August 14, 2019, Nigeria experienced a significant shift towards prison reform with the signing of the Nigerian Correctional Service Act by President Muhammadu Buhari. This act replaced the outdated Prisons Act and introduced new provisions on restoration and corrective measures, notably including noncustodial measures.

Aligned with international best practices in prison reform, the newly established Nigerian Correctional Service is tasked with accommodating both awaiting trial and convicted inmates, focusing on treatment and reform as central tenets of the rehabilitation process.¹⁸

With respect to constitutional safeguards and legislative interventions, the former, Constitutional safeguards play a crucial role in protecting the rights of Nigerian citizens. Sections 34, 35, and 41 of the 1999 Constitution establish the rights to dignity of the person, personal liberty, and freedom of movement, respectively. These provisions prohibit arbitrary arrest and detention, ensure prompt judicial review of detention, and mandate humane treatment of detainees. Apart from these, Nigeria has experienced some legislative reform with the Administration of Criminal Justice Act (ACJA) of 2015 which has introduced measures to curb unlawful detention, including judicial oversight of detention centers and provisions for bail and release procedures.

The system prior to the enactment of the ACJA 2015¹⁹ enabled the use of onerous bail conditions, delay in criminal process and procedures, unlawful arrest, and the abuse of suspects, etc.²⁰ Arguably, these ills contributed to the abuse of pretrial detention system as suspects are confined within the custodial centres for an indeterminable length of time; sometimes without access to legal representation or bail. Pretrial

¹⁸ B. Agbola, 10 things to know about Nigeria's new law on prisons. Premium Times. (16 August 2019) <https://www.premiumtimesng.com/news/top-news/346864-10-things-to-know-about-nigerias-new-law-on-prisons.html> accessed 20 February 2024.

¹⁹ This is a Federal Statute, applicable to only Federal Capital Territory Abuja, and federal offences. States in Nigeria have enacted their own Administration of Criminal Justice Law applicable to state offences in their various states.

²⁰ Joseph N. Agada and Emmanuel I. Umbu, 'Criminal Justice Administration in Nigeria: A critical Look at the Administration of Criminal Justice Act, 2015' (2019)10 Babcock University Socio-Legal Journal 45, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4177062 accessed 20 February 2024.

detention is a global phenomenon,²¹ however, each country deals with its own unique challenges whilst using this process.

Section 1(1) of the ACJA states as follows:

The purpose of this Act is to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of justice, protection of the society from crime and protection of the rights and interests of the suspects, the defendant, and the victims.

This preliminary section recognises that rights of all persons including suspects must be protected. It captures succinctly norms of international human rights law, which recognises that the inalienable right of person cannot be deprived except subject to certain conditions.²² Therefore the arbitrary and indefinite detention of persons is a deprivation of their human rights whether politically motivated, or to curb journalistic expression of the right of free speech. For instance, in 2012, General Sambo Dasuki(rtd) was appointed National Security Advisor to President Goodluck Ebele Jonathan, former president of Nigeria. When President Muhammadu Buhari came into power in 2015, Sambo Dasuki was arrested and detained at the pleasure of the president by the Department of State Security despite being granted bail by several high courts. Though these court affirmed the unconstitutionality of his continued detention, he was only released after 4 years in 2019.²³ Notably Sambo Dasuki is regarded as high value and politically exposed who can afford to pay for legal service. But what of the uncountable young men lost in Nigeria's criminal justice system?

²¹ Open Society Justice Initiative, *Presumption of Guilt: The Global Overuse of Pretrial Detention* (Open Society Foundations, 2014) 7

²² Alfred de Zayas, Human Rights and indefinite detention (2005) 87 [857] International Review of the Red Cross 1, 17-18 [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.icrc.org/en/doc/assets/files/other/irrc_857_zayas.pdf](https://www.icrc.org/en/doc/assets/files/other/irrc_857_zayas.pdf) accessed 17 February 2024

²³ Akinola Ajibola, 'Updated: Sambo Dasuki Released after Over Four Years in Detention' Channels TV(Abuja 24 December 2019) <https://www.channelstv.com/2019/12/24/breaking-sambo-dasuki-released-after-over-four-years-in-detention/> accessed 17th February 2024

The right not to be arbitrary detained is reiterated in Article 9 of International Covenant of Civil and Political Rights (ICCPR): -

Everyone has the right to liberty and security of person.
No one shall be subjected to arbitrary arrest or detention.
No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.²⁴

In addition, both the Universal declaration on Human Rights and the African Charter on Human and Peoples Right also recognise the right not to be arbitrary detained.²⁵

In October 2020, the rate of Police Brutality and arbitrary detention of person led to the #EndSARs protest in Lagos, Nigeria. This was a call for the disbandment of the Special Antirobbery Squard of the Police long known to have committed human rights abuses and other atrocities, profiling a specific demographic “young male Nigerian”.²⁶ Officers of the SARs unit mount illegal roadblocks, conduct stop and search, arrest young male Nigerians and arbitrary detain them, brutalising women, and carry out extra judicial killings to hide their atrocities. The protest was suppressed by the government but 4 years after we still hear that 15 of the protestors are still being detained.²⁷

²⁴ (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 [ICCPR] article 9 (1) <https://www.refworld.org/legal/agreements/unga/1966/en/17703> accessed 16th February 2024

²⁵ African Charter on Human and Peoples' Right (adopted 27 June 1981, entered into force 21 October 1986) 21 ILM 58(1982) article 6; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999unts 171 [ICCPR] article 9 <https://www.refworld.org/legal/agreements/unga/1966/en/17703> accessed 16th February 2024; Universal Declaration of Humans Rights (adopted 10 December 1948) UNGA res 217 A(III) [UDHR] article 9

²⁶ Nduka Orjinmo, 'End Sar Protests: The Young Nigerians who forced the President to 'back down' BBC(Abuja 13 October 2020) <https://www.bbc.com/news/world-africa-54508781> accessed 21 February 2024.

²⁷ Nigeria: Three years after #End SARS at least 15 protestors languish in Lagos Jail (October 20, 2023) <https://www.amnesty.org/en/latest/news/2023/10/nigeria-three-years-after-endsars-at-least-15-protesters-languish-in-lagos-jail/> accessed 17 February 2024.

Section 35 of the Constitution²⁸ guarantees the right of the EndSARs protesters to personal liberty. Subsections 4 & 5 further stipulate that no one shall be kept in custody for an indeterminable length of time but is expected to be brought to court within a reasonable period.²⁹ In addition, the ACJA 2015 and Police Act 2020 also frown upon the practice of arbitrary detention. When arrested without a warrant for an offence other than that punishable by death, a suspect shall be released on bail if it is not possible to bring the him/her to court within 24 hours.³⁰ Where it is a capital offence, the suspect shall be detained in custody and the police shall seek legal advice from the Attorney General, and take the suspect to court having jurisdiction within a reasonable time.

No one is above the law not even the police so the law places certain obligations on the police to protect the rights of everyone including suspects of crime.³¹ A key mandate is Section 296 of the ACJA 2015, that tackles the previous abuse of the criminal justice system notoriously used by police officer to facilitate the arbitrary detention of suspects for an indefinite period. Section 296 states that a suspect shall not be remanded for more than fourteen days at first instance and at the expiration of the remand order, if good cause is shown further extended for another 14 days. Usually, it is expected that within these 14 days Legal Advice will be obtained from the Attorney General. Where both periods of 14days have lapsed, the suspect may apply for bail to be granted under subsection (3). If it is still not issued, the court will issue a hearing notice and ask the Attorney General of the Federation, the Commissioner of Police, the Inspector General of Police, and any other authority whose custody the suspect is in to investigate the situation.

²⁸ Constitution of the Federal Republic of Nigeria 1999 [as amended]

²⁹ Reasonable period is 48 hours, or what the court considers to be reasonable and not the police.

³⁰ Administration of Criminal Justice Act 2015, Section 30.

³¹ Joseph N. Agada and Emmanuel I. Umbu, 'Criminal Justice Administration in Nigeria: A critical Look at the Administration of Criminal Justice Act, 2015' (2019)10 Babcock University Socio-Legal Journal 45,58. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4177062 accessed 20 February 2024.

The hearing will be adjourned for a maximum of fourteen days so that the officials mentioned above can appear and explain why the suspect should not be released unconditionally. If no justification is provided, the suspect will be released without conditions.³²

Like the ACJA, the Police Act 2020 holds law enforcement officials accountable for upholding suspects' rights and minimizing the number of arbitrary detentions. For example, the Attorney General for Justice of the Federal / States is expected to receive quarterly reports from the Inspector General of Police at the federal level and the Commissioner of Police in the states regarding all arrests made concerning federal/state offences, whether warranted or not. This duty extends to all other law enforcement agencies that have the authority to make arrests.³³ Second, on the last working day of each month, officers in charge of police stations or other law enforcement agencies must submit to the closest magistrate all suspects detained without a warrant, regardless of whether or not they have been granted bail. Eventually, the Administration of Criminal Justice Monitoring Committee receives this report, examines it and advises the Attorney General on trends in arrests, bail, and other relevant issues.³⁴ Thirdly, the police station and other places of detention under a jurisdiction other than the prison shall be inspected at least once a month by a Chief Magistrate within the police division or, in the absence of one, by a magistrate appointed by the Chief Judge.³⁵ These provisions reflect a consensus that arrest and detention of suspects for an indeterminate period is wrong. Nevertheless, there are still cases of noncompliance.³⁶ On the one hand, several magistrates do not conduct these monthly visits citing insecurity as the challenge, on the other hand, police officers sometimes hide the suspects arrested if informed of a proposed visit by the Magistrate. With these shortcomings,

³² Administration of Criminal Justice Act 2015, Section 296(6).

³³ Police Act 2020, Section 47.

³⁴ *ibid*, section 69(1) & (3); Administration of Criminal Justice Act 2015, section 33.

³⁵ *ibid*, section 70; Administration of Criminal Justice Act 2015 section 34.

³⁶ Bolanle Olabimtan, 'Fagbemi Faults Police over failure to provide monthly records of detainees' (The Cable, December 11, 2023) <https://www.thecable.ng/fagbemi-faults-police-over-failure-to-provide-monthly-records-of-detainees/amp> accessed 26 February 2024.

the objective of monitoring the trend of arrest is not achieved more so the rate of arbitrary detentions as many suspects slip through the cracks from the time of arrest until they are transferred to the custodial centres and forgotten.

Overall, Nigeria has good laws, however, extraneous issues such as poor implementation by stakeholders, capacity to understand their obligations under the law, budgetary concerns (finance to facilitate implementation) etc, institutional bureaucracy, poor deterrent mechanism etc affect its effectiveness.

3.0 The Plight of Pretrial Detainees in Nigeria

Theoretically, a nation's greatness is reflected in its treatment of individuals within its custodial centres. It reflects its observance of human rights guaranteed by constitutional provisions, and international and regional legal frameworks that recognize the right to freedom of movement, personal liberty, and dignity of persons amongst others. However, the arbitrary detention of persons under the pretrial detention system in Nigeria indicates a flawed structure that causes human rights abuse.³⁷

Essentially, the mandate of the NCos revolves around managing incarcerated individuals within the custodial facilities, ensuring their safety, transporting remand inmates to and from court, support the speedy disposal of case for those awaiting trial, administering punishments as directed by the courts, empower inmates via the deployment of educational or vocational skill acquisition training programmes, facilitating the rehabilitation and reformation of convicted persons and aiding the reintegration of persons who have served their sentences back into society.³⁸

³⁷ D Tarh-Akong Eyongndi. The Administration of Criminal Justice Act, 2015 as a Harbinger for the Elimination of Unlawful Detention in Nigeria (2021)21 African Human Rights Law Journal 441, 443-444.

³⁸ Nigeria Correctional Service Act 2019, Section 10.

Despite these statutory mandates, the plight of pretrial detainees within the custodial centres do not reflect the best image of the country because these centres are overcrowded, structurally deficient, susceptible to security breaches and the inmates do not enjoy adequate welfare conditions. For instance, in 2023 the Controller General of the NCos Haniru Nababa reported before the joint National Assembly committee whilst seeking an increment of feeding allowances for inmates in the custodial centres, that inmates get about N750 per day as feeding allowances whilst the security dogs get N800.³⁹ An appalling imbalance of priorities where inmates are treated less important than the security dogs. For individuals detained by other law enforcement agencies, the length of stay can be indeterminable as many law enforcement officers lack awareness about the rights of individuals in pretrial detention and the importance of fair and timely trial procedures which is essential for promoting accountability and transparency in the criminal justice system.

These institutional weaknesses amongst other contribute to promote human right abuses on pretrial detainees. Addressing these challenges requires comprehensive reforms, including improved coordination among law enforcement agencies, investment in social infrastructure within the custodial centres, enhancement of healthcare services, and the provision of adequate training for correctional officers. Additionally, efforts to streamline legal processes, increase access to legal representation, and combat corruption will address the root causes of increased number of pretrial detainees. Below are some of the unique peculiarities of the pretrial detention system in Nigeria: -

3.1 Abuse of Arrest/Bail System

The fundamental right to liberty, freedom of movement, or the presumption of innocence until proven guilty is essential for upholding the rule of law and protecting human rights. However, in Nigeria,

³⁹ Tope Omogbolagun, 'Inmates gets N750 Feeding Allowance, Dogs, N800 – NCO' (Punch , December 8, 2023) <https://punchng.com/inmates-get-n750-feeding-allowance-dogs-n800-ncs/#:~:text=%E2%80%9CThe%20total%20number%20of%20inmates,reduction%20of%20VAT%20and%20tax.> Accessed 1 March 2024.

unlawful detention remains a significant challenge, despite constitutional guarantees and legislative efforts. Instances of prolonged and unjustified detention, particularly in pretrial cases, persist.

There is an arrest first mentality in Nigeria. Though an expedient and necessary measure to tackling crime in the society it is often abused.⁴⁰ Police officers sometimes use the arrest system for personal gain, facilitating corruption through bribes and other kinds of incentives. For pretrial detainees that are already marginalised, paying bribes is not an option so they are subjected to detention beyond permissible periods without proper judicial review.

Law enforcement agencies, particularly the Nigerian police, have been implicated in instances of prolonged detention without due process, including coercive tactics such as "weekend or holiday arrests."

On the other hand, for the detainees in the custody of law enforcement that can afford the services of a lawyer, may also suffer some set back as often, the Police view lawyers as the enemy. There are so many cases of abuse or assault on lawyers by officers of the Nigerian Police Force whilst seeking bail on behalf of their clients at Police stations.⁴¹ Where the lawyer can obtain bail, the individual escapes detention, but where bail is not obtained, an individual can be detained for an indeterminable length of time contrary to the provisions of the law or constitutional safeguards. Note, the current abuse of bail system is one of the root causes of prolonged detention in Nigeria's criminal justice system. This has even created fear in citizens so much so that an invite to the police station will make the invited person inform not just his/her lawyers but

⁴⁰ Open Society Justice Initiative, *Presumption of Guilt: The Global Overuse of Pretrial Detention* (Open Society Foundations, 2014) 7.

⁴¹ James Kwen, 'Group Condemns Police Assault on Lagos Lawyer, Tasks Tinubu on Reforms' (Leadership, January 12, 2024) https://leadership.ng/group-condemns-police-assault-on-lagos-lawyer-tasks-tinubu-on-reforms/#google_vignette accessed 1 March 2024; Babatunde Titilola and Temitope Aina, 'Lagos NBA Protesters storm Police HQ over brutality against Lawyers' (Punch, January 12, 2024) <https://punchng.com/lagos-nba-protesters-storm-police-hq-over-brutality-against-lawyers/> accessed 1 March 2024

the entire society via social media just to ensure incarceration is avoided.⁴²

3.2 Access to Legal Aid

The essence of legal aid service in the criminal justice system is to inform and guarantee detainees the protection of their rights and to ensure a fair trial to prove their innocence.⁴³ In Nigeria, many pretrial detainees do not access legal representation despite the prevalence of the legal aid council in all the 36 states of Nigeria. The Council was established by Decree No 56 of 1976⁴⁴ to offer free legal service to indigent Nigerians, and since its establishment, it offers service to detainees by carrying out prison visits. However, the impact of its work appears to be minimal within the context that a lot of pretrial detainees require access to legal service. In addition, poor funding of the council to carry out their obligations such as regular prison visits, its staff ratio and the low visibility of its work altogether play a role in the ratio of pretrial detainees that access pro bono service.⁴⁵

3.3 Inadequate Healthcare

Health conditions within the custodial centres are deplorable, contributing to the spread of airborne infectious diseases due to an overcrowded sleeping quarter, lack of standard medical facilities, prescription drugs and qualified personnel.⁴⁶ The correctional service does not provide inmates with quality, reliable and equitable access to

⁴² FIJ Tweeted this on X <https://x.com/fijnigeria/status/1772542501317972397?s=48>

⁴³ UNODC, 'Handbook on improving access to Legal Aid in Africa' (Criminal Justice Handbook Series) (New York 2011) 7, https://www.unodc.org/pdf/criminal_justice/Handbook_on_improving_access_to_legal_aid_in_Africa.pdf accessed 20 February 2024.

⁴⁴ Now Legal Aid Council of Nigeria Cap L1 LFN 2004

⁴⁵ Adejumo Kabir, Indigent Nigeria Rot in Prison as Legal Aid Council Fails to Fulfil its Mandate (Hum Angle, May 15, 2022) <https://humanglemedia.com/indigent-nigerians-rot-in-prison-as-legal-aid-council-fail-to-fulfil-mandate/> accessed 28 February 2024; D Tarh-Akong Eyongndi. The Administration of Criminal Justice Act, 2015 as a Harbinger for the Elimination of Unlawful Detention in Nigeria (2021) 21 African Human Rights Law Journal 441, 452.

⁴⁶ Edafe Ulo, The Metamorphosis from the Nigeria Prison Service to Nigeria Correctional Service: Its Implications and Way Forward (2019) 2 (3) International Journal of Management, Social Science, Peace and Conflict Studies, 91, 93.

professional health care services.⁴⁷ The NCos is poorly funded, and many professional Health care practitioners such as Doctors, Nurses, Pharmacists etc do not consider the correctional centre as an ideal carrier opportunity. This has widened the existing health inequalities in the Nigerian Correctional centres between the vulnerable inmates such as pregnant women or awaiting trial inmates and those that have been convicted or are rich, who fare better with access to what ever health care opportunity available within the custodial centres than pretrial detainees or the poor within the facilities.

Notably, the African Commission on Human and Peoples Rights' held in the case of the *International Pen & Others (on behalf of Ken Saro-Wiwa) v. Nigeria*, that failure to allow the complainant to have access to his doctor infringed on his right to medical care and as such that act violated Article 16 of the African Charter on Human and Peoples' Rights.⁴⁸

3.4 Poor Welfare Conditions

The social infrastructure within the custodial centres is unsanitary and deplorable, as these centres often rely on the remnants of the colonial infrastructure, made of mud rather than cement in some instances.⁴⁹ This awful state is highlighted with the lack of adequate recreational facilities and other amenities such as toilets, bathrooms, or sleeping space within the correctional centres.⁵⁰ The environment has been described as "uncheerful," "dehumanizing," and akin to "hell" by those who have experienced it. Additionally, the physical infrastructure and housing facilities are often inadequate, with overcrowding exacerbating

⁴⁷ *ibid.*

⁴⁸ 2000) AHRLR 212.

⁴⁹ Edafe Ulo, The Metamorphosis from the Nigeria Prison Service to Nigeria Correctional Service: Its Implications and Way Forward (2019)2 (3) International Journal of Management, Social Science, Peace and Conflict Studies, 91,92 -93.

⁵⁰ Ibrahim Danjuma, Rohaida Nordin and Modh Munzil Muhamad, Prisons' Condition and Treatment of Prisoners in Nigeria: Toward Genuine Reformation of Prisoners or a Violation of Prisoners' Rights? (2019) Commonwealth Law Bulletin 1, 10 <https://doi.org/10.1080/03050718.2018.1557064> accessed 3 March 2023

these issues.⁵¹ The overcrowding of the sleeping areas often leads to diseases such as tuberculosis, skin breakout and rashes which are often not treated properly with standard medications.

Aside from structural concerns, food supplies to inmates appear to be inadequate both as it relates to the cost, quality (nutritious or wholesome), and quantity. There was an uproar/riot in the Jos Medium Correctional Centre Plateau State on the 1st of March 2024 as inmates protested the reduction in the rations to be provided to them by the NCos.⁵² The NCos on its part blamed the contractor supplying food who wanted to reduce the quantity due the poor economic situation in Nigeria.

3.5 Inhumane treatments/torture

Corruption and the use of bribes have taken over the management of pretrial detainees within the custodial centres.⁵³ Exploitation of these inmates occur daily either by government officials via budgetary control, officers obligated to rehabilitate the inmates or the inmates themselves where hardened ones have turned the centres to their homes extorting the weak and helpless ones.⁵⁴ Eyewitness accounts indicate that custodial officers collaborate with selected inmates to extort money from those awaiting trial. In the facilities, custodial officers' benefit from a systematic feeding method of inmates which is less than humane as plates of food are stack on top of each other and into each other without considering sanitary or hygienic conditions. Inmates that opt to eat elsewhere must pay bribes first. New entrants of pretrial detainees must pay bribes in order secure sleeping space and that is the bare

⁵¹ Stanley Ibe, 'Arresting Escalating Pretrial Detention in Nigeria: Some Reform ideas'(2013) 2 African Journal of Clinical Legal Education and Access to Justice 95, 101.

⁵² Adetutu Sobowale 'Economic Hardship: Jos Inmates Protest reduction in Food Ration' (Punch, March 1, 2024) <https://punchng.com/economic-hardship-jos-inmates-protest-reduction-in-food-ration/> accessed 1 March 2024

⁵³ Kelvin Abuchi Ugwuoke and Ifeanyichukwu Otodo, Repositioning Nigerian Prisons for Sustainable Development (2015)1(8) Journal for Studies in Management and Planning 283, 287. <http://internationaljournalofresearch.org/> accessed 1 March 2024,

⁵⁴ *ibid.*

floor.⁵⁵ For instance, over 160 inmates can be allocated a sleeping hall with less than 20 bed. There is a hierarchy system of order and leadership amongst inmates in the custodial centres with the leaders allocating sleeping spaces based on the value of bribes paid and flogging and torturing inmates that are consider having flouted the rules of the facilities. In Nigeria there is strict control over inmate activities leads to mental and physical brutalization, eroding their individuality and undermining the essence of the correctional system.⁵⁶

3.6 Administrative Lapses

A critical concern in the criminal justice system is the ineffective use of non-custodial measures to rehabilitate offenders. Presently, offenders that can adequately be rehabilitated by non-custodial measures are confined in the same detention facilities as repeat offenders or harden criminals. The co-mingling within the detention centres creates opportunity for recidivism and aids congestion within the pretrial detention system. Secondly, both the judiciary, police and NCos do not coordinate optimally with one another creating scenarios were first time offenders or those that involved in misdemeanors are incarcerated for an indefinite period without bail simply because they can't afford the bail terms or the services of a lawyer. Thirdly, looking at the workload of most courts, a judge may have an average of 400-500 cases on his docket which is further complicated by the manual system of the entire justice system and inefficient system for tracking the progress of cases as well as human factors. Such is exacerbating the pretrial detention system in Nigeria.

3.7 Capacity Building

There is inadequate training and retraining of correctional officers and this hinders the achievement of the NCos goals of reformation and

⁵⁵ Edefe Ulo, *The Metamorphosis from the Nigeria Prison Service to Nigeria Correctional Service: Its Implications and Way Forward* (2019)2 (3) *International Journal of Management, Social Science, Peace and Conflict Studies*, 91,93.

⁵⁶ E.E Obioha, 'Punishment in Society' in U. C. Isiugo-Abanihe, A.N. Isamah , and O Adesina Jimi (eds.) *Currents and Perspectives in Sociology* (Malthouse Press Limited, Lagos 2002) pp. 367-379.

rehabilitation.⁵⁷ It further hinders the objective of the ACJA 2015 targeted at securing pretrial detainee rights. Many officers need ample training on human rights, non-custodial measures, pretrial services targeted at reducing pretrial detention. Capacity building of correctional officers contributes to better productivity in their role as officers. However, because of the lack of training, officers do not effectively capture inmates' health status prior to detention and during their stay, a key component of providing adequate welfare to inmates. Officers have not been adequately trained on how to capture the status of any detainee in their custody as there are different categories of pretrial detainees and they should not be lumped together.⁵⁸

4.0 Reformative Measures

How do we change the narrative, resolve the problem of pretrial detention in Nigeria and reduce human right abuse? Pretrial detainees are entitled to enjoy some basic human rights such as access to healthcare, right to legal representation, adequate welfare conditions by the correctional centre authorities, safe environment free from torture, right to family life, etc; despite being confined.

4.1 Reform Interventions Supported by the US Government through the Bureau of International Narcotics and Law Enforcement (INL)

In addition to other interventions previously funded by McArthur Foundation, Open Society Justice Initiative, Open Society initiative for West Africa and other donors, in 2018, some intervention came to the plight of pretrial detainees in the form of the Reforming Kuje Project. This was a pilot project implemented by a consortium of organisations comprising Partners Global, the Network of University Legal Aid

⁵⁷ Edefe Ulo, The Metamorphosis from the Nigeria Prison Service to Nigeria Correctional Service: Its Implications and Way Forward (2019)2 (3) International Journal of Management, Social Science, Peace and Conflict Studies, 91,93 -94.

⁵⁸ Kelvin Abuchi Ugwuoke and Ifeanyichukwu Otodo, Repositioning Nigerian Prisons for Sustainable Development (2015)1(8) Journal for Studies in Management and Planning 283, 286 -288. <http://internationaljournalofresearch.org/> accessed 1 March 2024.

Institutions (NULAI), Partners West Africa–Nigeria (PWAN), and New-Rule LLC⁵⁹ funded by the US Government through INL.

The project aimed to support the Nigerian government reduce the size of pretrial detention population by promoting a cycle of detainee registration, representation, and processing in rule of law and respect for international human rights.

This project was piloted only in the Kuje, keffi and Suleja custodial centres located close Abuja and it adopted some key implementation strategies. The first approach included deploying and training correctional officers on the use of the Corrections Information Management System (CIMS) developed by the Nigerian Corrections Service (NCS). A training manual on the use of CIMS was also developed. CIMS is a home-grown technological solution for data management. It keeps record of all inmates that are in the custody of the Nigerian Correctional Service (inmate registration). But is has the potential for much more. The second strategy was to develop capacity of clinical law students that provide pro bono legal aid services to pre-trial detainees. NULAI runs law clinics out of law faculties across Nigeria universities with easy access to clinical law students.⁶⁰ The process of capacity building involved partnership between Nigerian universities and U.S. law schools to strengthen clinical law education and the team of law students were overseen and mentored by law professors and pro bono lawyers.⁶¹ The third, was provision of institutional support to the relevant Office of the Chief Judge in the areas

⁵⁹ Partners Global, 'Reforming Pretrial Detention in Nigeria; Project Overview'(Report) (September 2023) <https://www.partnersglobal.org/wp-content/uploads/2024/02/Reforming-Pretrial-Detention-in-Nigeria-Project-Overview-FINAL.pdf> accessed 20 February 2024.

⁶⁰ https://nulai.org/pre-trial-detainees-law-clinics-in-nigeria/?option=com_edocman&view=document&id=30&Itemid=321 accessed 3 March 2024.

⁶¹ Sunday Kenekukwu Agwu and Olinda Moyd, Making Global Connections when it matters the most: An exposition of the virtual student exchange pilot project between Nigeria and U.S. clinical law students (2022) 68 Washington University Journal of Law and Policy 168, 170-172. <https://ssrn.com/abstract=4227306> accessed 17 February 2024.

of case management, court administration and remand warrant processes and procedures. The Fourth was the development of a Court Observer App to follow the progress of the detainees' cases. Finally, support was provided to local Administrative Criminal Justice Monitoring Committee's (ACJMC) subcommittees to strengthen their oversight capacity of the implementation and compliance with the law pertaining to pre-trial detention under the 2015 Administration of Criminal Justice Act.⁶²

4.1.1 Success of the Pilot Project

- i. There was a reduction of the average period between adjournments from more than 31 days to close to the 14 days prescribed by the Administration of Criminal Justice Act (ACJA);
- ii. It enabled the utilization of technology and integration of a case management module (CMM) into the Corrections Information Management System (CIMS);
- iii. With this pilot a total of 496 pretrial detainees were interviewed at Kuje Custodial Centre out of which 158 family members were contacted; 223 cases were verified at the courts; 79 cases were verified at the prosecuting agencies, and court appearances entered in 151 cases.⁶³
- iv. Law clinicians support

It should be noted that without these types of intervention, detainees never stand a chance in Nigeria due to systematic failure mentioned earlier.⁶⁴

⁶² Partners Global, 'Reforming Pretrial Detention in Nigeria; Project Overview' (Report) (September 2023) <https://www.partnersglobal.org/wp-content/uploads/2024/02/Reforming-Pretrial-Detention-in-Nigeria-Project-Overview-FINAL.pdf> accessed 20 February 2024.

⁶³ <https://nulai.org/pre-trial-detainees-law-clinics-in-nigeria/reforming-pretrial-detention-in-nigeria-rpdn-project/> accessed 3 March 2024

⁶⁴ Alfred de Zayas, Human Rights and indefinite detention (2005) 87 [857] International Review of the Red Cross 1, 18 https://www.icrc.org/en/doc/assets/files/other/irrc_857_zayas.pdf accessed 17 February 2024

It is important to note that the pilot project provided data that indicated the effectiveness of the interventions. However, the project itself had a narrow focus in terms of number of custodial centres it supported. The first phase however, led the donors to consider an expansion of the project.

4.2 Reforming Pretrial detention in Nigeria (RPDN) Project- II

The RPDN project captures all the ideals of the pilot project and much more. Its scope of work extends to 5 states – Adamawa, Kaduna, Lagos, Nasarawa, Plateau, and the FCT covering 3 custodial centres in each of the states and the Police Stations. The project also has a gender angle, by ensuring it focuses on reduction of pretrial detainees in three women centres as well. There are some women's only custodial centres in Nigeria though the number of awaiting trial inmates is not as high as the male centres. The primary objective of this project is to reduce pretrial detention population in Nigeria including the women facilities also. Support will be provided to at least 18750 detainees annually ensuring that they access legal aid and other pretrial services. Importantly, a sustainability component is introduced to resolve gaps such as low number of legal personnel, narrow scope of work, etc experienced during the pilot project. The measures adopted by the RPDN project to tackling pretrial detention in Nigeria include the following: -

4.2.1 Upgrade of Technology

CIMs is an effective inmate registration tool but it provides a generic rather than distinctive categorization of the inmates during the registration process. This project is supporting the improvement on CIMs such as its data registration modules to ensure more distinctive categorization of inmates, e.g. those formally charged, charged but trial yet to begin, convicted but not sentenced, sentenced but appealing which overall supports improved analysis of data. Support is also provided for development of module on access to drugs and healthcare for detainees, legal representation, and case management module etc.

4.2.2 Improved Case Management Systems

Improved case management systems tackle undue delay in the administration of criminal justice from two different perspectives. First, provide facilities that support court sittings to ease administrative processes between criminal justice agencies and second it improves inter agency communication and coordination thereby bridging gaps in the system that facilitate arbitrary detention.

1. Ease of Administrative Processes

Ensuring the safe movement of awaiting trial detainees to court in Nigeria is undermined by general insecurity in the country, poor weather conditions such as heavy rainfall, lack of fuel or functional vehicles to transport inmates from the custodial centres. In view of this difficulty, court recording systems comprising audio and visual equipment is used to support court hearing. With this equipment, judges no longer write court proceedings by long hand.⁶⁵ In addition, virtual court hearing rooms are installed within the correctional centres to support court hearings from within the custodial centres. Within these centres, inmates do not need to leave the correctional centres but can attend hearing of their cases via these virtual hearing rooms.⁶⁶

2. Improve Inter Agency Coordination amongst Criminal Justice Agencies

Improved inter agency communication and coordination reduces delay in the dispensation of criminal justice. Also, it reduces unnecessary pretrial detention. The improved case management module on CIMs is used to reduce the delays experienced from the Ministry of Justice that prosecutes inmates. Often, awaiting trial inmates tend to be abandoned or forgotten in the system. Thus, the case management module in CIMs will be integrated with the Ministry of Justice. So, inmates that are in detention for 180 days will be flagged and reported. The overall aim is to have daily reporting on the stay of inmates in detention thereby

⁶⁵ Installed under the Court Administration and Case Management project managed by PPDC but funded by the INL in Nasarawa, Plateau and Kaduna States.

⁶⁶ The Court Administration and Case Management project managed by PPDC supports the RPDN Project as the CACM pilot states are part of the RPDN Project Phase II and similar equipment is being provided to other custodial centres that lack it.

reducing detention period from indeterminable length of time due to administrative and bureaucratic delays.

4.2.3 Legal representation for detainees

Pretrial detainees will receive legal representation in court. In addition to lawyers willing to offer their services pro bono, law student clinicians and lawyers serving their mandatory one-year National Youth Service Scheme support project implementation.

I. Law Students Clinicians

These Law students support the provisions of legal services to detainees in the correctional centres but do not go to court as they are not qualified to practice law in Nigeria. The service offered by law clinicians is immeasurable⁶⁷ as a lot of pretrial detainees get access to lawyers, information on their cases (adjournment dates) via this means. These law clinicians also inform the family members on the detainees on their whereabouts. It must be pointed out here that some awaiting trial inmates have lost contact with their family who sometimes are unaware that they are in custody.

The law clinicians will also conduct interviews of inmates in the custodial centres, verify cases in court and supply the information to lawyers willing to take up the cases pro bono. In order to use the services of law clinicians, service agreements have been signed with the law clinics of several universities within the project states. The project procures law books for these students to facilitate their understanding of the law and procedural rules to effectively provide the much-needed support required of them.

II. Police Duty Solicitors Scheme [legal representation By NYSC Corps Members]

Apart from the custodial centres in Nigeria, a lot of individuals are arbitrarily detained under remand order system in Police station and

⁶⁷UNODC, 'Handbook on improving access to Legal Aid in Africa' (Criminal Justice Handbook Series) (New York 2011) 29-30, https://www.unodc.org/pdf/criminal_justice/Handbook_on_improving_access_to_legal_aid_in_Africa.pdf accessed 20 February 2024.

detention centres of other prosecuting law enforcement agencies such as Department of State Security, Economic and Financial Crimes Commission, Nigeria Drug Law Enforcement Agency, etc. To ensure sustainability of legal representation that will be offered to these individuals, the Legal Aid Council of Nigeria, an institution that exist in every state of the federation with offices scattered across the country is working with PPDC to oversee the work of NYSC corp members who are lawyers with license to practice in Nigeria as they work as Police duty solicitors ensuring that detainees in these detention centres receive the legal representation. Further, these lawyers will monitor the trend of arrests at the police stations and ensure that arbitrary detention by the police is curbed.

III. Pro bono lawyers

The pilot reforming Kuje project has demonstrated how effective the service of pro bono lawyers is with little or no risk involved. Awaiting trial inmates just like everyone else are entitled to legal representation.⁶⁸ With the understanding that inmates in pretrial detention often lack money to afford the services of a lawyer, Lawyers practising in the RPDN states have consented to support project implementation by giving their time and resources providing free pro bono legal service. With support from the law clinicians who act as paralegals and obtain all the initial information from detainees within the custodial centres the lawyers will be able to represent these inmates in court.

4.2.4 Performance Management/ Stakeholder Support

Due to administrative loopholes, there is an abuse of criminal proceedings and processes such as the inappropriate use of remand orders system. This system was introduced by the ACJA to address arbitrary detention following arrest however, it is facilitating detention. For instance, the remand order process mandates law enforcement agencies to approach a court to seek permission for detaining the

⁶⁸ Open Society Foundations, 'Improving Pretrial Justice: The Roles of Lawyers and Paralegals'(A Global Campaign for Pretrial Justice Report)(2012)23-24 <https://www.justiceinitiative.org/publications/improving-pretrial-justice-roles-lawyers-and-paralegals> accessed 27 February 2024.

individual.⁶⁹ Experience has shown that Law enforcement agencies approach a court in the first instance, secure a remand order for 14 days but refuse to approach the court after the expiration of the initial remand order (14 days) for an extension.⁷⁰ Secondly, the Courts do not keep a record of remand orders issued hence law enforcement agencies can continue to detain persons for an indeterminable time.⁷¹ Thirdly, some law enforcement agents subvert the system and detain individuals for civil issues such as indebtedness on loans obtained, minor criminal offenses that do not merit arbitrary detention or proxy arrests.⁷²

To curb this abuse, the project provides institutional support to the Judiciary in the form of trainings, and systemic changes using technology targeting improved case management, court administration and remand warrant processes and procedure. In the FCT there is a performance management system that tracks performance and use of processes such as remand. This is being extended to the other states to promote speedy prosecution of pretrial detainees.

4.2.4 Administration of Criminal Justice Monitoring Committee (ACJMC)

One of the major changes to the administration of criminal justice in Nigeria is the role of oversight. Section 469 of the ACJA 2015 establishes an Administration of Criminal Justice Monitoring Committee with membership from key justice sector institutions. Its main functions are to monitor compliance with the ACJA 2015 to ensure the reduction of pretrial detainees in the custodial centres,⁷³ promotes speedy trials, reduce delays and congestions in court, as well as manage the interagency coordination and communications amongst different institutions in the justice sector.⁷⁴ Regular meetings is an important

⁶⁹ Administration of Criminal Justice Act 2015, Section 293.

⁷⁰ *ibid*, Section 296

⁷¹ United States Department of State: Bureau of Democracy, Human Rights and Labour, '2022 Country Reports on Human Rights Practices: Nigeria (Report)(2022)1, 9-11 <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/nigeria/> accessed 3 March 2024.

⁷² *ibid*.

⁷³ Administration of Criminal Justice Act 2015, Section 470.

⁷⁴ *ibid*.

strategy to ensure that the ACJMC carries out its functions thereby strengthening its oversight capacity. PPDC as a member of this committee donates its time and resources to ensure that regular meetings occur. The effect is that decisions of the ACJMC such as scheduling monthly visits to the police stations, review of data, advocating for the better adoption and compliance measures etc foster greater drive to reduce arbitrary detention in Nigeria.

4.3 The Court Administration and Case Management Project

The Court Administration and Case Management Project (CACM) is a project also funded by the Bureau of International Narcotics and Law Enforcement (INL). The key aim of the CACM project is to promote access to justice by supporting the development of more effective and professional law enforcement and justice sector institutions. Its overall impact in the plight of awaiting trial inmates is felt around improved access to justice in the pilot states of Kaduna, Nasarawa and Plateau State.⁷⁵ The CACM project promotes speedy and efficient dispensation of justice through improved Case Management Systems (CMS), primarily at the State Judiciary and other related law enforcement and justice institutions under the following objectives:

- i. Improved capacity, efficiency, and accountability in Nigeria's court case management system
- ii. Improved control, preservation, and storage of evidence within the Nigerian criminal justice system
- iii. Improved scheduling system for court sessions and hearings in the Nigerian criminal justice system
- iv. Improved court administration processes within the Nigerian criminal justice system⁷⁶

This project ensures that the key provisions of the Administration of Criminal Justice Law that target delays and institutional inefficiencies in the dispensation of criminal justice are tackled. The key outcome of the project that engender speedy trial, which will contribute to

⁷⁵ <https://nannews.ng/2023/11/06/ppdc-gives-nigerian-detainees-hope-provides-legal-representation/> accessed 27 March 2024

⁷⁶ <https://www.ppdc.org/cacm/> accessed 27 March 2024.

protecting the rights and interests of the society, suspect, defendant and victim in a criminal process work is the installation of court recording systems. These systems are installed in 3 courts (2 high courts and one magistrate court) in each of the piloted states. The court recording system is made up of audio and visual equipment that support digital recording of court proceedings thereby easing reliance on the old system of where judges write long hand. The system uses software adjudged to be about 95% accurate in understanding the local idioms, colloquial expressions, and local names in everyday use. The court recording system has a remote access to the custodial centres in these states, so inmates do not have to be physically present in court for their cases to be heard. Within the confines of a virtual court room located within the custodial centres' inmates including those awaiting trials who would ordinarily not be able to come to the court can still have their cases heard by judges.

Another outcome is the improvement of court scheduling and notification systems for the courts in these states. Standard operating procedures were developed to facilitate cooperation and coordination between the Nigerian Police Force, Nigerian Correctional Service, the Department of Public Prosecution for diligent and expeditious investigation and prosecution of cases in the pilot states. Improvement in evidence management led to the creation of record centres in each of the states where all the criminal records in the state judiciary from its inception were sorted, collated, indexed, and filed into archival boxes and then shelved onto automated shelving solutions thereby tackling the issue of lost case files.⁷⁷ Criminal case files were also scanned and uploaded onto a bespoke case management system in each state both at the High Court and the ministry of Justice with support given also to the Nigerian Police to engender better integration of case management amongst these institutions and forestall delay and the excuse of poor mechanisms for cooperation. In addition, the project created secretarial pools for Magistrate courts to support its administration. Desktops, photocopiers, and scanners were provided at a central office with alternative power supply to serve clusters of magistrate courts located

⁷⁷ <https://www.youtube.com/watch?v=b134Q7II72E> accessed 20 March 2024.

close to each other. Normally these magistrate courts would patronise public business centres with no guarantee as to how to secure court records for forestall data breaches, there were complaints of incessant delays in obtaining rulings of court as the Magistrate court depend solely on public but privately-owned business centres to support preparation of these court records. The secretarial pools serve a key resource in curbing administrative and institutional delays.⁷⁸

5.0 PPDC's Role and Access to Justice in the Nigerian Criminal Justice System

The Public and Private Development Centre (PPDC) is a social enterprise and non-governmental organization that aims to empower citizens to participate actively in governance processes and have a more transparent and accountable government.⁷⁹ PPDC was established in 2003 with programs designed to promote values and initiatives which drive institutional, behavioural and systemic change on a large scale and in a way that will benefit society and its development.⁸⁰

PPDC concentrates on bolstering and expanding changes to improve service delivery within criminal justice institutions concerning access to justice. The criminal justice system in Nigeria is underdeveloped, and as a whole, its institutions cannot satisfy the populace's demands for justice. These institutions' case management procedures are frequently beset by structural bottlenecks that irritate people and lessen the possibility that justice will be done.⁸¹ Human rights concerns are also becoming more prevalent about restorative justice procedures, pre-trial detention, and the professional behaviour of law enforcement personnel. Through transparency tools, PPDC's programs seek to improve citizens' interactions with the government and legal system, increase access to justice for Nigerians, and strengthen state authorities' ability to investigate and prosecute cases effectively.⁸²

⁷⁸ chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://www.ppdcc.org/wp-content/uploads/2023/08/CACM-Newsletter-Q3.pdf accessed 27 March 2024.

⁷⁹ <https://www.ppdcc.org/> accessed 28 March 2024

⁸⁰ Ibid

⁸¹ Public and Private Development Centre, <https://www.ppdcc.org/access-to-justice/> accessed 28 March 2024

⁸² Ibid

In addition to the Reforming Pretrial Detention in Nigeria (RPDN) II Project, funded by the US Department of State's Bureau of International Law Enforcement and Narcotics, PPDC is presently carrying out the Court Administration and Case Management Project. There has been enough discussion of both projects above.

6.0 Conclusion

In addition to the right to a speedy trial or release in the event of arbitrary detention, a person deprived of their liberty is also entitled to compensation.⁸³ In Nigeria such a person is only too happy to be released and rarely insist on monetary compensation for the breach of his/her right to personal liberty. Compensation is inanimate and comes in the form of relief. There is ample evidence to show that early intervention in criminal process has positive impact on suspects, his or her family as well as the criminal justice system in general.⁸⁴ By this Nigerians of low means would not have to suffer the injustice of awaiting trial for the indefinite length of time.

PPDC with the RPDN Phase II project is pushing the narrative for improved capturing of inmate data within the custodial centres and improved access to healthcare, better support from existing institutions of government to provide legal representation to pretrial detainees and working with the Key Criminal Justice institutions as part of the ACJMC to ensure compliance with reformatory legislative mechanisms to protect pretrial detainee rights, ensure better communication and coordination as well as foster improved access to technology which will equate to access to justice.

⁸³ Constitution of the Federal Republic of Nigeria 1999(as amended) Section 35(6).

⁸⁴ Open Society Foundations, 'Improving Pretrial Justice: The Roles of Lawyers and Paralegals'(A Global Campaign for Pretrial Justice Report)(2012)41 <https://www.justiceinitiative.org/publications/improving-pretrial-justice-roles-lawyers-and-paralegals> accessed 27 February 2024.