

7
**JOURNAL OF PUBLIC LAW
& CONSTITUTIONAL PRACTICE**

VOL. 4 NO. 2 SEPTEMBER 2012



A Publication of
**Department of Public Law,
Faculty of Law, University of Jos.**

TABLE OF CONTENT

X-RAY OF THE CONCEPT OF THE 'REASONABLE MAN' AND CRIMINAL DEFENCES IN NIGERIA

Kabo, Sarinus Ettor 1 - 16

THE POWERS OF THE PRESIDENT TO CONTROL THE NIGERIA POLICE FORCE: AN APPRAISAL OF SECTIONS 214 AND 215 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 (AS AMENDED).

Ifeolu John Koni 17 - 32

MEDICAL NEGLIGENCE AND CONSUMER PROTECTION: AN EXAMINATION

Nkiru J. Obumneme-Okafor 33 - 58

AN ASSESSMENT OF THE EXTENT OF PROTECTION AFFORDED THE CONSUMER THROUGH INFORMATION DISCLOSURE PHILOSOPHY

Samuel Oguche 59 - 76

REFUGEE PROTECTION AND THE IMPACT ON HOST COUNTRY

Chinwe K. Okoli and Halima Doma Kutigi 77 - 88

GENDER AND PEACE BUILDING IN AFRICA: AFTERMATH OF UNITED NATION RESOLUTION 1325

Angela Olofu-Adeoye 89 - 101

A DIAGNOSTIC APPRAISAL OF THE CLOGS IN THE ENFORCEABILITY OF PRISONERS' RIGHTS UNDER THE NIGERIAN LAW

Olokooba S.M., Olatoke J.O. & Ijaiya N.O.A 102 - 114

RIGHTS OF CHILDREN BORN AND RAISED IN PRISON: THE NIGERIAN EXPERIENCE

Elizabeth Folake Owolabi 115 - 129

A DIAGNOSTIC APPRAISAL OF THE CLOGS IN THE ENFORCEABILITY OF PRISONERS' RIGHTS UNDER THE NIGERIAN LAW

OLOKOOBA S.M.,* OLATOKE J.O. * & IJAIYA N .O.A*

Abstract

In 2007, the Amnesty International Research Team conducted a research on prisons condition in Nigeria. In their report, they described the situation in the Nigerian prisons as "appealing". In 2010, a similar research on the constraints to the enforcement of prisoners rights in some states in the North-Central part of Nigeria was conducted by one of this writer in conjunction with other researchers from the Faculty of Law, University of Ilorin, and just like 2007, the result was also critical! From their findings, it was evident that, even though some sorts of rights are enshrined in both the Nigerian Constitution, as well as the Prisons Act, in reality, when it comes to the enforcement of those rights, the Nigerian prisoners are mere human being but without right! This paper therefore examines the various clogs that make the exercise of prisoners' rights in Nigeria, a myth and proffers some practical solutions that can turn such myth to reality.

INTRODUCTION

Right is a Universal Phenomenon and the emergency of human rights law in international sphere is one of the most significant developments that have taken place since the end of the Second World War.¹ Human rights being the basic guarantees, which individuals enjoy simply because they are human beings, are enshrined in the chapter four of the Constitution of the Federal Republic of Nigeria, as Fundamental

* LL.M (Ife), B.A (Hons.),P.G.D.E, LL.B, Ph.D.(Unilorin), Lecturer and Former Coordinator, Department of Business Law, Faculty of Law, University of Ilorin. E-Mail: sakaskydlaw2002@gmail.com, Phone:08066767646

* LL.B, LL.M, Ph.D. (Ife), Lecturer, Department of Jurisprudence and International Law, Faculty of Law, University of Ilorin.

* LL.B, LL.M, M. Phil. (Ife), CLD (NIALS. Lagos) Lecturer, Public Law Department, Faculty of Law, University of Ilorin

¹ Adimula R. *et al* "In search of Protection for Child Right: A Diagnostic Appraisal of Child Brides in Africa," (2012) *Nigerian Journal of Food, Drug and Health Law*, at 55

Rights. These rights are intended to carry out the objectives set out in the preamble of the constitution and to establish an egalitarian social order informed with political, social and economic justice and ensuring the dignity of the individual.²

If not recently that the third categories of prisoners (forgotten inmates) emerged in Nigeria, prisoners are broadly categorised as awaiting trial and convicted prisoners. While the awaiting trial are accorded substantial part of human right, the "forgotten inmate" and convicted prisoners in Nigeria are perceived and categorized as an "out cast," and bad eggs" in the society. In reality, rights are not accorded to the forgotten inmate and convicted prisoners and neither are there any mechanism put in place by the Nigerian government to protect and remedy any infringement on their right if it occurred. Unfortunately, some of the so called prisoners became one, due to no fault of theirs, but either by mistake of identity or by some miscarriage of justice.³ Though, many authors, writers and social commentators have written on the horrible state of the Nigerian prisons⁴ while some wrote on prisoner's plight in the Nigerian prisons as well as different categories of right they (prisoners) have under the Nigerian law,⁵ but the reasons why prisoners

² Alikali C. et.al "Fundamental Rights and Fundamental objectives and Directive Principles of State Policy: Issues and Possibilities for Justiciability" (1999) 2 *Kogi State Bi-Annual Journal of Public Law*, at 99.

³ Olokooba S.M. et. al. "An Overview of the Rights of Prisoners Under the Nigerian Law," (2010) 3(1) *Confluence journal of Jurisprudence and International Law*, at 135

⁴For instance, see Adetifa E.K. "Liberalised Judicial Attitude in Pre-Trial Bail. A Veritable tool for prisons Decongestion " (2010) *Kogi State Bi-Annual Journal of Public Law*, Sagay I "Liberty and the Rule of Law as Inalienable Rights of Nigerian Citizens" in Awa U.K. (Eds.) *Lawyers' (1995)2 Bi-Annual, Journal of Nigeria and Comparative Law*, Okoza J. Imhonde H.O, Alueda O. "The Jailer or the Jailed: Stress and Prison Workers in Nigeria" (2010) *Current Research Journal of Social Sciences*, (Maxwell Scientific Organization, 2010), Olaolu O, Davidson I. and Chiedmele E "Nigeria Prisons: Death Traps or Reform Centres?" available on line at <http://www.thisdaylive.com/articles/Nigerian-prisons-death-traps-or-reform-centres/11569>, visited on (24/12/2012)

⁵ See Nnamdi A. J "Prisoners Rights in Nigeria: A Critique" available on line at <http://dspace.unijos.edu.ng/bitstream/10485/202/1/37/PRISONER.pdf>, accessed on (26/12/2012), Chinwuba I. "Nigeria Citadel of Injustice", available on-line at http://www.mercatornet.com/articles/view/Nigerians_citadel_of_justice, visited on (12/12/2012), Olokooba, S.M. et. al. "An Overview of the Rights of Prisoners

- There should be adequate respect for constitutional provision on Human Right by all the stakeholders in the prisons affairs while dealing with prisoners.
- There should be general overhauling of the Nigerian laws as regard prisoner's right. Any breach by any arms of government should attract adequate and severe sanction.
- Prison decongestion and prison visit should be more frequent and in those visit prisoners should be allow to complain to the visitors on case(s) of breach of their right while in prison.
- Nigerian lawyers and the bar in general should be ready to provide more humanitarian services especially to the indigent prisoners whose right is breached. They should de-emphasise the attachment of good legal representation to good money or turning legal service to highest bidder's game.
- There is the need for a total war against corruption in Nigeria. Any corrupt judicial or administrative officer should adequately be dealt with.
- Government should wake up to their civic responsibility by providing good education, possibly free from the primary to university level. This will help in reducing the level of illiteracy in the country. Job should also be created for the Youth to check crime rate and other social vices in the country. Therefore, as opined by Micheal³¹ government should create jobs to absorb the army of unemployed youth and where job are not available then, social security scheme should be put in place to provide them with monthly stipends that will dissuade them from criminal activities and keep their hopes alive.

Keywords: Prisoners Right, Clogs, Myth, Nigerian Laws, Reality.

³¹ Micheal C.O" *Cyber Crime and the Proliferation of Yahoo Addicts in Nigeria*" *AGORA International Journal of Juridical Science*, No 1, (2012), online at www.juridicaljournal.univagora.ro visited on 6th February, 2013, p.99