JOURNAL OF JURISPRUSDENCE, INTERNATIONAL LAW AND CONTEMPORARY LEGAL ISSUES
Rivers State University, Faculty of Law *ISSN: 1115 5167 Vol.20 Issue.2, 2025*

A LEGAL EVALUATION OF THE UNITED NATIONS' STANDARD MINIMUM RULE FOR THE TREATMENT OF PRISONERS AND ITS IMPLEMENTATION IN NIGERIAN PRISONS

Desmond O.N. Agwor, Ph.D* & Harrison Lawrence B. Esq.**

Abstract

A person in custody as a convict, awaiting trial person or a detainee is denied certain basic rights as a result of the custodian judgment or remand order passed on him/her by a court of law or arrested and kept in detention while investigation pending prosecution is on-going. Prisoners in these categories are specifically subjected to restraint of movement and thus, deprived of total assurance of benefiting from the freedom of personal liberty under the law. In this circumstance however, a prisoner who is observing the sentence or order of court by being in custody or as a detainee should not absolutely lose his right as a "human being". The law guarantees the prisoner or detainee to enjoy some basic rights despite being confined to prison or detention, except by a pronouncement by the court or as stipulated in a binding law. The negative perception of treating prisoners and detainees as less human when in custody, deny the prisoners and detainees their basic rights as human beings and by extension, the state exhibiting the lack of will to promote an enabling environment for proper and standard treatment of all prisoners in prison/custody. This study therefore appraises the United Nations Standard Minimum Rule for treatment of prisoners in prison and detention centers in Nigeria. It is the contention of this study that there are basic and essential best practices and global standards for the treatment of prisoners in all forms of custody, which are not implemented in custodial administration in Nigeria. The study recommends legislations to protect prisoners while in custody and the need for proper training of staff of security agencies to adopt standard of best practices in handling prisoners.

Keywords: *United Nations, Minimum Standard for Prison Operations and Implementation in Nigerian Prisons*

1. Introduction

Prisons is defined as a reformatory facility where persons convicted by courts of competent jurisdictions for crimes committed against the states are kept. It is a facility also where persons are remanded pending sentences from a courts or on the grant of bail by a court.[1] Persons in this category are classified as awaiting trial persons (ATP). Furthermore, the prison is also a remand facility for security agencies who detain persons while investigation is ongoing. These are classified as detainees.[2]

* Ph.D, LL.M, LL.B (RSU, Port Harcourt), BL (Abuja), DIP (RIVCAS, Port Harcourt), MCIArb; Lecturer at Law, Department of Jurisprudence and International Law, Faculty of Law, Rivers State University, Nkpolu-Oroworukwo, P.M.B. 5080, Port Harcourt, Nigeria.
Tel: +2348035425341, E-mail: desmond.agwor3@ust.edu.ng; desmondnoa@gmail.com
**LL.M (RSU), LL.B (UYO), B.L (Abuja); Ph.D Student, Rivers State University, Nkpolu-Oroworukwo, P.M.B. 5080, Port Harcourt, Nigeria. Tel: +2348063464124, E-mail: harlawas2014@gmail.com

[1] Nmekini Churchhill U, Corrections our goal. (Port Harcourt: Minson Publishers 2019) 1-2
[2] *Ibid*

Under the Prisons Act, the prison is defined as "A building in which people are legally committed as a punishment for a crime or while awaiting their trial[3]." Before the 1700's, governments at that time very rarely imprisoned criminals/offenders as a punishment. Thus, people were not imprisoned as awaiting trial or punished as convicts in for custody.

Punishments that were prevalent in those times were whipping, branding, monetary compensation or fines and capital punishment in case of serious offence[4]. The authorities punished these offenders in front of the public with the aim to discourage people from breaking the law. However, with the passage of time English and French rulers started keeping their political enemies in prisons, for which they used places such as the Tower of London and the Bastille in Paris. In addition to this they had created different prisons for different crimes, for instance, people who owed money and defaulted on payment were held in debtor's prisons.

In majority cases the families of the prisoner could stay with them and come and go as they wished, the debtors however had to stay in the prison until their debts were fully settled[5]. In *Dharmbir v. State of U.P*[6] the court directed the state Government to allow family members to visit the prisoners and for the prisoners at least once a year to visit their families. After this dispensation, an era of harsher punishment and execution was introduced for convict prisoners.

During this period many scholars including British Judge, Sir William Blackstone criticized use of executions and other harsher punishments. As a result, most governments turned to imprisonment as a form of punishment. Presently, in developing countries and Nigeria as a case study, the prisons and its administration are ignored by the state, leaving the safety of inmates' custody at a risk. Thus, culminating in the dire need of humane prison reform. The arguments to promote modern prison reforms are for the humane management of prisoners in line with human rights concerns. It is this premise which led developed countries and United Nations to enact provisions, standards and norms based on humane treatment of prisoners giving birth to the standard minimum rule for the treatment of prisoners.

Worthy of note, John Locke who was a great English political theorist of the 17th Century expressed his view and said that-men were basically good, but laws were still required to keep down 'the few desperate men in our society.' Prisons are the place where prisoners are kept in order to isolate them from society until they do their time and are ready to be free. Prisons are public institutions and which is why they must perform the function assigned to them by the law which is custodial and reformatory in nature. The law in simple words and precise manner declares that if any person, no matter who is

[3] AS Hornby, *Oxford Advanced Learner's Dictionary of Current English*. (7th ed. UK; Oxford University Press 2006) 1154
[4] JB Lutze, "Are Shock Incarceration Programs More Rehabilitative than Traditional Prisons?" A survey of inmates" (1998) *Justice Quarterly*. 15:547-563
[5] DK Tiwana and Payal Singh, "Concept of Prisons and their Importance in Modern Society," www./j/ra.com>accessed October 2021.268-270
[6] (1979) Air 1595 1980 SCR (1)1

convicted of any crime i.e. an act forbidden by the law, they will undergo trial and if convicted shall be placed either on probation, fine, or will undergo a sentence of imprisonment.

Men are thus sent to a prison as a punishment, strictly speaking, the law sends them to prison to be reformed but more importantly and primarily to be held in safe custody. Thus we can safely accept that till the last century, the central idea behind this system has been to keep the prisoner in safe custody alone[7]. The more recent and modern tendency now is that the prison system is meant for reformation of the prisoners. Along with that the objective is that they may return to society as useful members and contribute to its welfare and this function of the prison is not termed as discipline.[8]

Prisons serve as an important arm of the criminal justice system and assist in punishing the deviant behavior of a delinquent. In India, prison falls under state subject in list II of the 7th Schedule of the constitution. The major administration of prisons falls under the ambit that concerns the State Government and it is administered by the Prisons Decree and the Prisons Act respectively.

In most developed nations, the management of the prisons rest strictly on the state. Thus, states have the primary and statutory responsibility to manage prisons. In Nigeria, Nigeria Correctional Service Act 2019 is the legislation that regulates the administration of prisons now correctional service. Prison reform is necessary to ensure that the concept behind the formation of the prison system is respected, the human rights of prisoners are protected and their prospects for social reintegration could be increased. In the context of this discuss, prisons are reformatory facilities and detention centers where convicted persons, awaiting trial persons and detainees are remanded in the order of a lawful authority.

2. Legal Justification of Standard Minimum Rule for the Treatment of Prisoners

The Constitution of the Federal Republic of Nigeria and other state legal documents; Armed Forces Act, DSS Act; Immigration Act, NCOS Act EFCC Act and Police Acts among others clearly outlines basic rights to be enjoyed by the citizens of the country. The 1999 Constitution, and other local statutes and international instruments protect certain rights that should be available to persons in custody. Noteworthy is the fact that gradually the philosophy of imprisonment is now shifting from using imprisonment as a tool of retributive justice to reformation. With the hope of reforming prisoners and absorbing them back into the society as better citizens. Similarly, other security sector actors, especially the military and the police has lately remodeled their mission and goal to be societal friendly with a human face of interacting and treating members of the society especially those in their respective custody.[9]

It is against this philosophy that prisoners and detainees in detention need to be treated as human beings that they are and should not be subjected to degrading and inhuman treatment which would make them

[7] (n3) 279
[8] *Ibid* p. 282
[9] Jeremy Sarkin, Prisons in Africa: An Evolution from a Human Rights Perspective "Legal Studies Research Series (2018). *International Human Rights Journal,* Vol. 17-38.

embittered and return back to the society with bruised or wounded psyche which will make the society worse for it.[10]

Accordingly, the security sector actors community, with its culture and way of life gives a complete design capable of[11] changing the attitudes of the offenders/suspects in their custody for good or bad depending on the personal experience of person in the custody and the social network actions[12]. It is an acceptable fact that operations and administration of the custody system in Nigeria turns the less hardened individuals to more hardened criminals when unleashed to the society, due to the horrible experience they go through in the custody/prison.

The fundamental cause of post release problems of maladjustment and high rate of recidivism is traceable to the look up pattern and content of the custody system.[13] A sentence to prison or remand order to a custody term in detention is ideally meant as punishment and not for punishment, therefore, the security sector actors have to be accountable for the manner prisoners, suspects and detainees in their respective custody are treated, especially regarding their wide discretion Al powers.[14]

The Nigeria Court of Appeal held per Uwaifo JCA, in the case of *Peter Nemo v. Attorney General of Lagos State and Ors.*[15] "that persons in custody will have their rights intact except those deprived by law. He stated further that even a condemned criminal awaiting execution still maintains his rights until properly executed by the due process of the law. However, this is not the case in Nigeria as prisoners are not well treated when in prison and detention centers. The security actors in the course of handling suspects and convicts, truncate the rights of persons in their custody. It was reported by the National Human Rights Commission of Nigeria that there has been lots of human rights abuses and challenges in prisons and detention centers and the situation is quite ugly gruesome and barbaric.

Remarkably, even in the security actors extant laws and operational guide training, training manuals, lecture manuals and publication content very well captures the United Nation Standard for the treatment of prisoners[16] yet its implementation is poor, ideally assumed to be just theoretical adventure.

The Human Rights Commission has made observations that the Federal Government and security actors have failed to implement the recommendations from studies carried out in the poor and ugly situation of the prisons and detention centers in Nigeria. It stated that little has been done unfulfilling its promises over the years, especially in the present democratic dispensation. This dispensation has regrettably

[10] SM Olokor's and WA Oyedokun-Al: "An Overview of the Rights of the Prisoners under the Nigeria Law" (2015) *Conference Journal*
[11] F Chukwuma, "Challenges of Reforms in the Nigeria Prison System: Lessons from USA and South Africa" (2012) Vol. 4 *Journal Global and Public Policy*
[12] Adetunde GA and Fetusin FA: "The Prison System Culture: its Attitudinal Effects in Operatives, Convicts and the Free Society" (2010) Vol. 18 No.1 *Journal on Psychology*, 232-251
[13] (n 6) p. 37
[14] Jon Vagg. Prison System- *A Comparative Study of Accountability in England, France, German and the Netherlands (Oxford, London: Clarendon Press, 1994)*
[15] (1996) 6NWLR (Pt. 452) 42
[16] National Human Rights Commission Nigeria Right of Prisons and Detention Centres Act 2010

witnessed negative outcomes with reference to prisoner and detainee breach of rig HR and the state of prisons and detention centres.[17]

The European Convention on Human Rights (ECHR) by Article 14 guarantees everyone in the state equal rights without discrimination. The practice of the ECHR has moved away from supporting inherent limitations to the rights of incarcerated persons in prison and detention centers to a more liberal approach and wider protection of funds for human rights during imprisonment and detention. It is contended that International Human Rights upholds their prisoners and detainees should continue to enjoy access to all rights guaranteed to all persons "subject only to restrictions that are unavoidable, necessary and appropriate in the context of imprisonment and detention[18]

Rule 2 by the European Union Rules (2006) also states that "persons deprived of their liberty retain all rights that are not lawfully taken away by the decision of sentencing them or remanding them in custody. Similarly, the United Nations Human Rights provides in its General Government No. 21 that respect for the dignity of such persons deprived of their liberty must be guaranteed under the same conditions as that of free persons. It goes further to state that such persons shall enjoy all rights set forth in the covenant subject to the restrictions that are unavoidable in a closed environment.

3. Prisoners' Rights

Right is defined as an interest recognized and protected by law, respect for which is a duty and disregard[19] for which is wrong.[20] Right is a generic term that confers certain benefits on a person who possesses it. Generally, right, as a matter of fact, can be innate and naturally endowed by virtue of being human; it can also be derived by the operation of law. There are basic rights which are both naturally given and protected in the letter-and spirit of the law[21]. Some of these rights are regarded as very fundamental to human existence and therefore should not be deprived except in circumstances provided for by the law. Some rights are also given international recognition because they are so important that they have to be addressed at the global level to appropriately secure such from being trampled upon, and for their observance and effective implementation.[22] Before the 1960s, in the United States, a prisoner was seen not only to have forfeited his liberty as a result of crime, but also all his personal rights except those that the law of humanity accords to him; thus the prisoners was regarded as a slave of the State.[23] It was in the 1960s and 1970s that the court began to extend constitutional protection to prisoners.[24]

[17] *Ibid*
[18] Marcus Ayodeji Avaromi, *Prisons Rights under the Nigeria Law: Legal Pathways to Progressive Rehabilitation and Protection Article*, (2017) Department of Public Law, Faculty of Law, University of Ibadan. P. 173
[19] United Nations Human Rights Committee (1992) General Comment No. 21
[20] MA Araromi, 'Prisoners Rights under the Nigeria Law (2015) *Journal of Sustainable Development of Law and Policy*, vol. 6 No. 1 170
[21] R. George, "Natural Law" (2008) Harvard *Journal of Law and Public Policy* vol. 31 171 - 196.
[22] *Ibid*
[23] Gary Rock, Book Journal. Angus Love ed. 22-28 "Protecting the State and Prisons: Hands-off Doctrine" (2009) *Prisoners Right Hand Book Journal*. Angus Love ed 22-28
[24] *Inolf v McDonnell* (1974) 418 US 539, SSS

Human rights for citizens and prisoners inclusive are fundamentally concerned with the sphere of "ius Subjectivum" the term "ius." Is a right a person possesses as a consequence of his relationship with the state, society or government (*ius in rem" in contrast to "ius in personam"*) meaning a subjective right of man[25]. Human right from this perspective means "the inviolable moral power to have, to do or to require something from another." Explaining says that human rights represent "those inviolable and inalienable moral powers (*facultates*) of every human being to have, to do, to require from others (*exigere*), to possess or give something."

Consequently, human rights "are powers for action in order to meet one's duties and obligations in life[26]" They are rights which human beings possess from the very fact that they are human. They have these rights irrespective of their social status, cultural accomplishments, moral merits, religious beliefs and class memberships, Incarceration not excluded. The ultimate source of human rights is not the mere will of human beings, nor the state or public powers. It is rather found in man himself and in God his Creator. These rights are "universal, inviolable, and inalienable." They are universal because they are present in all human beings without exception of subject, place or time. They are inviolable as far as "they are inherent in the human person and in human dignity[27] and moreover, "it would be vain to proclaim rights, if at the same time everything was not done to ensure the duty of respecting them by all people, everywhere, and for all people. They are inalienable insofar as "no one can legitimately deprive another person, whoever they may be, of these rights, since this would do violence to their nature."

As fundamental rights, they are "inalienable"[28]. They constitute entitlements that bellio equal to all people simply because they are human beings with equal worth and dignity. Inalienable implies that these rights and freedom cannot be taken away no matter what the person does or who the person is, inclusive in this circumstance are persons in prisons either as convicts or remanded as awaiting trial persons.[29]

The Constitution of the Federal Republic of Nigeria confers certain rights on the citizens and these rights are regarded as fundamental to human existence. A prisoner, just as any other Nigeria, is ordinarily entitled to the fundamental rights entrenched in the constitution. Some of these rights include; Right of life, Right to dignity of human persons, Right to fair hearing, Right to private and family life, Right to freedom of thought, conscience and religion, Right to freedom of expression and the press, Right to peaceful assembly and association, Right to freedom from discrimination and Right to acquire and own immovable property anywhere in Nigeria[30]

[25] S. Owe, *The History and Contents of Human Rights. The study of the History and Interpretation of Human Rights.* (FrankFurth-Germany: Peter Lang Publishers 1994) 150.
[26] (n7) 150
[27] Syllabus Okechukwu, *Human Rights and the Church in Nigeria- A Pastoral Agenda* (Owerri, IMO State: Edu. Edy Publishers 2007) 3
[28]U Oji Umozurike, *The African Charter on Human and Peoples Rights* (Ikeja- Lagos: Matina Nijoff Publishers 1997)1-2
[29] *Ibid*
[30] Brownle Lam, *Basic Documents and Human Rights* (Oxford-London: Clarendon Publishing Company 2019)

Except circumstances provided by the constitution the above rights are inalienable and cannot be deprived. For instance, the right to life provides that no one shall be deprived of his life intentionally except in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria. Also, section 34[31] of the constitution ensures the dignity of human person and, thus, no one should be subjected to torture or to inhuman or degrading treatment, nor be subjected to slavery or servitude, and no one shall be required to perform forced or compulsory labour, save for any among other exceptions.

The standard minimum rule for the treatment of prisoners provides the right of prisoner to privacy[32] may be subject to subversion, as a prisoner has no reasonable expectation of absolute privacy in his cell. It is reasonably expected that a prisoner should be subjected to constant and thorough search while in prison so as to prevent concealment of objects that are forbidden for prisoners such as weapons, drugs, and other contrabands. The fact that a prisoner is serving a prison term does not debar him from owning property. This right is guaranteed under the Section 44 of the constitution but such right can be invaded by the provisions of any general law for the imposition or enforcement of any tax, rate or duty, for the imposition of penalties or forfeiture for the breach of any law, or relating to the execution of judgments or orders of court, among other conditions stipulated under that section.

As an aspect of human rights, the concept of prisoners' rights has been upheld by a number of international declarations and notational constitutions. The underlying assumption-that people who are detained or imprisoned do not cease to be human beings, no matter how serious the associated crime - was expressed in the international Covenant on Civil and Political Rights, Article 10; which states, "All persons deprived of the human person." This rests on the principle that the deprivation of liberty (that is, imprisonment) is the operative punishment and that it should not be augmented by unnecessarily restrictive conditions as commonly seen and perpetuated by custodial administrators.

The Implication of this principle has been recognized by many countries. In the United States, for example, prisoners may bring legal action under the provision of the U.S constitution - notably the Eighth Amendment's[33] under the prohibition of "cruel and unusual punishments" and the Fourteenth Amendments[34] guarantees of due process and equal protection of the laws. In some cases, Courts have ordered state prison administrators to make major improvements in prison conditions and disciplinary procedures or to close down particular institutions. In Europe, prisoners have the right to take cases to the European Court of Human Rights, but they may also utilize the National Court to demand for their infringed rights. Intergovernmental organizations (such as the United Nations) and Nongovernmental organizations have lobbied worldwide in defense of prisoners' rights, such as the right to personal safety and security while in prison among others.

[31] CFRN (1999) As Amended, S. 33
[32] CFRN (1999) As Amended S.34
[33] ICCPR (1996) Article 10
[34] *Ibid*

Furthermore, there is the right of all persons in prison and detention centres must be housed in humane facilities as enshrined in the standard minimum treatment of prisoners (SMR). Importantly, awaiting trial persons and detainees should not be punished or treated as guilty while they are awaiting trial or under investigation. The SMR also provides that prisoners also have the rights to be free from cruel and unusual punishments: The term 'cruel' by the US Supreme Court is any punishment that can be considered inhumane treatment or that violates the basic concepts of a person's dignity and found to be cruel, dehumanizing and constitutes constitutional violation.

It is noteworthy that the SMR provides that prisoners cannot be subjected to sexual crime including sexual harassment. The prisons Rape Elimination Act protect prisoners. Prisoners cannot be racially segregated in prisons, except where necessary for preserving discipline and prison security. Prisoners can complain about prison conditions and have the rights of access to the court to air their complaints and rights violations.

The SMR provides disabled prisoners are entitled to assert their rights under disabilities Act, to ensure that they are allowed access to prisons programs/facilities that they are qualified and able to participate in. Furthermore, prisoners are entitled to medical care and attention as needed to treat both short term conditions and long term illness. The medical care provided must be adequate, proper and administered by trained personnel.

Well couched from the SMR is the provision that prisoners are entitled to a hearing if they are to be moved to a mental facility. However, an inmate is not always entitled to a hearing if he/she has been moved between two similar facilities. In Spite of these rights, prisoners have limitations on their rights. Prisoners will enjoy only those rights such as freedom of speech, movements, worship, privacy etc. which are not in accordance and legally approved with their status as inmates and which are in keeping with the legitimate objectives of the penal facilities such as preservation of order, discipline and security.

Prisoners are entitled, under the due process clause of the United States of American constitutions, to be free from unauthorized and intentional deprivation of their personal property by prison officials and security agencies. However, prisoners and detainees do not have reasonable expectations of privacy in their prison cells and are not protected from "shakedowns" or searches of their cells to look for weapons, drugs or other contrabands. Under Prison Litigation Reform Acts (PLRA), prisoners must exhaust internal prison grievance procedures before filing suit in court. Prisoners must pay their own court filing fees, either a one payment or in the series of monthly installments. Courts have the right to dismiss any prisoner lawsuit which they find to be either "frivolous", malicious or stating an improper claim. Also, prisoners are not file claim for mental or emotional injury unless they can show that they also suffered a physical injury.[35]

[35] John Vagg, Prisons System: *A Comparative Study of Accountability in England, France, Germany and the Netherlands.* (Oxford-London: Clavendom Press Publishers 1994)

4. The United Nations' Standard Minimum Rule for the Treatment of Prisoners

The common practice in the legal jurisprudence in Nigeria bothers on appeal to a judgment or a fundamental rights claim for unlawful detention for persons in custody, little is done to address the wide range of fundamental abuses carried out massively on daily basis in the prisons and detention centres, especially to the awaiting trial persons and detainees who are still deemed to be innocent.

In recognizing the need to provide global standard with regards to the distinct considerations that should apply to prisoners, awaiting trial persons and other detainees, a number of relevant resolutions have been adopted by different United Nations bodies to respond appropriately to cruel, barbaric and inhuman handling of all classes of persons and offenders in custody, and poor custodial administration. Some of these international resolutions include; the UN Standard Minimum Rule for the treatment of prisoners also known as "Mandela Rule", the UN Standard Minimum Rule for administration of Juvenile Justice "Beijing Rule" and the United Nations Standard Minimum Rule for the treatment of women prisoners "Bangkok Rule". Other International resolution relevant to inhumane treatment of prisoners include, the body of principles for the protection of all Persons under any form of detention or imprisonments, It is noteworthy to state that these instruments are binding on individual state government to the extent set out in them and explicates the broader standard contained in human rights treaties. These documents clearly reaffirm the tenet that prisoners and detainees retain fundamental human rights and human integrity.

The United Nations Standard Minimum Rule for the treatment of prisoners apply to all prisoners, suspects and other offenders, including children, women, breast-feeding mothers and the disabled without discrimination. Human rights abuses, torture and inadequate health care to prisoners and persons in custody is common and negatively on the rise especially in Nigeria.[36]

The current trend of modern jurisprudence on humanity buttressed the obligation to treat persons deprived of their liberty with dignity and respect. The standard minimum Rule, was inspired by principles contained in various United nations conventions and declarations; thus, it is consistent with the provision of existing international laws. The rules were addressed to prisons authorities and criminal justice agencies, (including security agencies, policy makers, legislators, the prosecution, the judiciary and probate services), Though, it is a non-binding declaration adopted by the United Nation General Assembly, It is however, considered to be a central component of international customary law and practice, urging members, nations to promote a number of human, civil, and social rights to prisoners and offenders in custody, Asserting these rights are part of the foundation of freedom, justice and peace in the world. Human rights are the rights that all people irrespective of their circumstance-incarceration inclusive, have by virtue of being human. Human rights are derived from the inherent dignity of the human person and are defined internationally, nationally and locally by various law making bodies. The UN standard minimum rule for the treatment of prisoners is among the global and international response

[36] Chesa Bondin, "Children of Incarcerated Parents. The child's constitutional rights to the family relationship" (2007) *The Journal of Criminal/Law and Criminology,* vol. 101 No. 2.

for the human treatment of prisoners and offenders in all forms of incarceration. The mandate of the SMR is to protect and uphold the fundamental rights and liberties of all classes of persons in custody.

In Nigeria, Section 19 of the Prisons Act[37] defines a "prisoner" as any person lawfully committed to custody. By this definition, it means any person who is lawfully confined to prison and any form of detention is a prisoner. This, therefore, means that a person becomes a prisoner on the date first admitted into prison, or detained in any custody which therefore qualifies detainees, awaiting Trial prisons (ATP's) as prisoners because they are normally confined to prison by the order of the court[38] or through an order of a statutory authorized body.

Pre-trial detention itself does not violate human rights if it takes place under the proper conditions for a short-time and as a last resort. However, indiscriminate and fundamental rights abuses by security agencies culminate in denying the integrity of the prisoner and the UN Standard Minimum Rule for the treatment of Prisoners ensures to uphold the dignity of the prisoner while in custody.

5. Evaluating the Treatment of Prisoners under the Nigerian Correctional Service System

The laws that gave rise to the creation of prisons and lately correctional service constitutionally mandated the service to custody and remand persons sentenced by court either as convict or awaiting trial persons (ATP). The legislation (Prisons Act) bothers on administration of prisons with little regard to up-holding the fundamental rights and human dignity of persons while in custody.

In Nigeria, suspects and convicts who constitutes the prisoners as defined by the prisons Act, while in custody or in remand these prisoners are grossly maltreated, tortured and their fundamental rights truncated by the prison administrators and by extension the state, contravening the SMR. Significantly, the 1999 Constitution of the Federal Republic of Nigeria confers certain rights on the citizens, and most importantly, chapter four of the document protects certain rights that are regarded as fundamental to human existence.

A prisoner or suspect, just as any other Nigerian citizen is ordinarily entitled to these fundamental rights enshrined in the constitution. The fact that persons remanded in custody either as a convict or awaiting trial does not rob-off all associated fundamental rights of the person as a human being, the Nigerian Constitution guarantees these rights and the United Nations standard minimum rules for the treatment of prisoners protect the prisoners against abuses by the prison authorities. Not only that persons deprived of their liberty are not to be subjected to torture or other cruel inhuman or degrading treatment or punishment, they are also protected from being subjected to any form of medical or scientific experimentation, hardship and constraint other than that resulting from the deprivation of liberty as stipulated in the SMR. Thus, there is the requirement for the respect for the dignity of such persons as those of other citizen in the outer society. |The law guarantees that persons deprived of their

[37] Prisons Act (2004) p. 29 LFN S.19
[38] *Edmund Okologume & Ors. v. Minister of International Affairs & Ors.* PFHC/EN/P/102/2000

liberty should enjoy all the rights set forth in the International Covenant on Civil and Peoples Right ICCPR, subject to the restrictions that are unavoidable in a closed environment.

The current and common legal practice concerning persons in prison in Nigeria is basically litigation on appeals to court judgment and unlawful detention where bail is granted and perfected or case struck out or discharged and the suspect is still in custody or detention. This should not only form the concern for legal jurisprudence in Nigeria, it is noteworthy that there are other multifaceted human rights abuses in detention centres and correctional facilities which are un-constitutional and should occupy front burners in our legislation and constitution.

Issues of worthy concern in Nigeria that are not in line with the standard minimum rule for the treatment of prisoners; Beijing Rule, Bangkok Rule, and Mandela Rule includes; lack of facilities to properly integrates newly admitted prisoners and suspects into the prisons. Indiscriminate practice of allocating prisoners to prisons without consideration to prisoner's homes and places of social integration. Non-availability of facilities and mechanisms to meet the needs of pregnant and breast feeding prisoners. There is no legal mechanism to protect the right of children admitted with their mothers into the prisons as required by SMR. The health care services provided do not equate to those approved by law and do not meet international standard. Furthermore, the policies and techniques of searching prisoners in custody and other items especially food items brought into correctional centres contravenes the approved standard as provided by the SMR. There are no specialized facilities for persons with disabilities (PWD) and mentally deranged suspects and prisoners. The above stated are numerous inherent fundamental rights abuses and inhuman treatment of prisoner and detainee in custody prevalent in correctional centres, and contravene the standard minimum rule for the treatment of prisoners and detainees.

6. Conclusion

The standard minimum rule of the treatment of prisoners is a global penal practice well known in Nigeria. In the correctional service are captured vividly and elaborately. 2019 Axt and got her extant laws stipulates the standard minimum rule for the treatment of prisoners.

As part of compliance and effective operationalizing SMR the correctional service has the human right unit, intelligent units, welfare sections, non-custodial section, servicom section and religious and cleric units. In Spite of this platform and staff training the application of the SMR still remains as a principle and not in practice.

Basically, the Standard Minimum Rule is to ameliorate the various ill-treatments and fundamental abuses of prisoners and cruel prison administration in line with international law. In *V v.UK; Ireland v. United Kingdom'*[39]*Vanolanne v. Finland'; and Valasina v. Lithuamia*[40] are judgments by international court in favour of prisoners in line with the standard minimum rule for the treatment of prisoners,

[39] (1971) Application No. 5310/71
[40] (1997) Communication No. 265/97

European prisoners rule, torture convention and prohibition of torture and other ill treatment Act 1990. The judgments from these courts found custodial administrators culpable and guilty of the Act of torture, unjust and suppression of protest, cruelty and flagrant human rights abuses of prisoners.

It is recommended that there should be legislation with provisions for pre conviction and post-conviction protection of rights of persons in prison be enacted in *tandem* with the standard minimum rule for the treatment of prisoners. Also, there is the need for proper and continuous training of security agencies, on the proper handling and running their facilities in line with standards applicable in the modern penal industry as outlined by standard minimum rule for the treatment of prisoners.