

UNIVERSALITY OF PRISONERS' RIGHT AND APPRAISAL OF THE LEVEL OF CONFORMITY IN NIGERIA

Abstract

This paper examines the concept of human right as well as the universality in the application of the concept to the prisoners' welfare in most countries of the world. To determine the level of conformity of this concept in Nigeria, the paper discusses the post-conviction problems prisoners face in Nigeria as against what is obtainable in some other countries of the globe. In the final analysis, the paper posits that, due to unrealistic nature of prisoner's right enforcement in Nigeria, the situation is an aberration to the best global practices. To check the situation, the paper made some practical recommendations that could make the issue of prisoner rights conform to that which is obtainable in most civilised countries of the world.

Keywords: Prisoners' Right, Conformity, Aberration, Universality of Human Rights

1. Introduction

The universal declaration of human rights is a reflection of standards that are common cultures and traditions all over the world¹. In this regard, human beings are allowed to enjoy some level of decent living, peace and harmonious existence. In most countries, these rights are codified, outlined and or stated as fundamental which could not be alienated. For this, right could be said to be 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.² Fundamental Rights are enshrined in the chapter four of the Constitution of the Federal Republic of Nigeria. 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.³ The main approach of the universal declaration of human rights is to define the rights of individuals, and make recognition of, and respect for those rights a responsibility of the government⁴. However, considering the uncommon problems, clogs and troubles, prisoners usually face in enforcing their rights in Nigeria, can one say that curtailing prisoners' rights are what is obtainable globally or that Nigerian situation is an aberration? This is basically the jurisprudence of this paper.

*By **J. O. OLATOKE, SAN, LL.B, LL.M, M.Phil., Ph.D. (Ife)**, Senior Lecturer, Jurisprudence and International Law Department, Faculty of Law, University of Ilorin.

* **K. A. MAHMUD, LL.B, LL.M, Ph.D**, Associate Professor of Law, Faculty of Law, University of Ilorin.

***N.O.A. IJAIYA, LL.B, LL.M, Ph.D. (Ife)**, Senior Lecturer, Public Law Department, Faculty of Law, University of Ilorin

* **Iroye O. SAMUEL, PhD, LL.M, BL**, Lecturer, Faculty of Law, National Open University of Nigeria, Victoria Island, Lagos.

* **Hassan I. ADEBOWALE, LL.B, LL.M**, Senior Lecturer, Adeleke University, Ede Osun State

¹ Ehi-Oshio 'Rights and Obligations of the Individual' *Contemporary International Law Journal of Private and Property Law*, University of Benin, Vol.1(1)2010, p.183-184

² Adimula RUTH *et.al* 'In search of Protection for Child Right: A Diagnostic Appraisal of Child Brides in Africa', *Nigerian Journal of Food, Drug and Health Law* 2012, pp. 53-71, at 55. See also Olokooba S.M, Olatoke J.O and Ijaiya N.O.A, A Diagnostic Appraisal of the Clogs in the Enforceability of Prisoners' Rights under the Nigerian Law, *Journal of Public Law and Constitutional Practice* vol.29(2), 2012, p.102

³ Alikali UMAR, Magaji CHIROMA, *et.al* 'Fundamental Rights and Fundamental objectives and Directive Principles of State Policy: Issues and Possibilities for Justiciability', *Kogi State Bi-Annual Journal of Public Law*, Vol. 2, 1999, pp.99-105, at 99. Olokooba *et al op.cit*, p.103

⁴ Ehi-Oshio, *op.cit*, p.184

Conceptual framework and operational definition of terms follows this introduction, while section three focuses on the universal concepts of right. In section four, the paper discusses the Nigerian experience on fundamental human rights as well as the aberration and or conformity level of the enforcement of prisoners' right in Nigeria as against the global practices. The paper ends in section five with conclusion and recommendations.

2. Definition of Terms

In this paper, we will be examining some major concept that has direct bearing to the theme of the paper. Thus, in consideration of the concept at hand, one must note that there are some key words which meaning is to be ascertained from the beginning. The words are Universality of Human Rights, Prisoners' right, Conformity and Aberration. *Universality of Human Rights* is used in this paper as the global availability of human rights to human being *Prisoners Right* in this paper are the constitutional rights available to the prisoners in Nigeria. These rights are enshrined in both the Nigerian Constitution⁵ as well as the prisons Act⁶. *Conformity* in this study is used as a situation where what is obtainable in Nigeria is aptly the way it is obtainable in other parts of the world *Aberration* is a situation that is in variant and or different from what is obtainable in other parts of the world.

3. Universality in the Concept of Human Right

Save North Korea where human rights are taken to be conditional rather than universal⁷ in most other parts of the world, human rights is a universal concept. Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Convention on Civil and Political Rights, both categorically states that no person shall be subject to degrading forms of human ill treatment or punishment such as torture or any inhuman punishment. The major purpose laid down in Article 1 of the United Nations Organization is to promote and encourage respect for human rights and for fundamental freedom of all. To achieve this objective according to Bharadwaji⁸, 'the UN General Assembly adopted a Universal Declaration of Human Rights on Dec 10., 1948 to promote respect for and to secure universal and effective recognition and observance of those rights and freedom'.

Furthermore, as part of socio-political and civic responsibility of every nation, the social doctrine obliges every state to jealously protect the rights of its citizens without exclusion of any. The United Nations Universal Declaration of Human Rights of 1948 eloquently describes fundamental rights as the inalienable and inviolable rights due to all members of the human race.⁹ The adoption of African Charter on Human and Peoples' Rights under the auspices of the Organisation of African Unity in 1981 formed the basis for the system of *supra-national* human protection in Africa. The adoption did not only depict the willingness of the African states to join in the internationalization of human rights¹⁰ but also the drafter of the Charter failed to follow the examples of the European and Inter-American human rights

⁵ Nigerian Constitution is the *grundnorm* of all the Laws in Nigeria. It is a rigid and amended last in 2011.

⁶ This is the law that regulates the prison activities in Nigeria. The latest edition is Cap P 29 Laws of the Federation of Nigeria 2004.

⁷ See Song JIYOUNG and Robert WEATHERLEY 'The Evolution of Human Rights Thinking in North Korea' *Journal of Communist Study and Transitional Politics*, Vol. 24, No.2, 2008, pp. 272-296 Available also at <<http://en.wikipedia.org/wiki/Human_rights_in_North_Korea>>8.6.2013

⁸ Bharadwaj KALPANA 'Human Rights of Prisoner's Under India Constitution' *Shodh Samilksha and Mulyankan (International Research Journal)* Vol. II, Issue 6, 2009, pp.840-841 at, p.840

⁹ Ewere ANTHONY. 'Discrimination: A Bane of the Fundamental and Reproductive Rights of HIV/AIDS Victims', *Port Harcourt Law Journal*, Vol. 4, No.1, 2012, pp.278-294 at, p.284. Olokooba *et al*, *op cit*, p.105

¹⁰ Akinseye GEORGE, 'New Trends in African Human Rights Law: Prospects of an African Court of Human Rights', *University Of Miami International And Comparative Law Review*, Vol. 10, 2001-2002, pp. 259-175

system, which under their respective human rights Conventions created both Human Rights Commission and Human Rights Court.¹¹

United State of America

In the United State of America, every individual as well as prisoners obtain the basic rights which are needed to survive and sustain a reasonable way of life. Even though some rights are taken away from prisoners and limited restricted are put on what they can and can't do, there are machineries put in place for them to exercise their rights if it is tramped upon. Amongst the rights which prisoners enjoy in the United States of America are;

Right not be punished cruelly or unusually,

Right to due process,

Right to administrative appeals,

The right to access the parole process,

The right to religion,

The right to be notified of all charges against them,

The right to receive written statement explaining evidence used in reaching a disposition,

The right to file a civil suit against another person,

The right to visitation,

Then right to food that would sustain an average person adequately; and

The right to bathe¹²

Canada

In Canada, the Canadian Bill of Rights stands as an Act for the recognition and protection of Human Rights and Fundamental freedoms. In the Bill, the following human rights and fundamental freedoms are enshrined;

- a. The right of individual to life, liberty and right not to be deprived thereof except by the due process of law,
- b. Right of equality before the law,
- c. Freedom of religion,
- d. Freedom of speech,
- e. Freedom of assembly and association; and
- f. Freedom of the press.

The Bill of Rights in Canada is more at the disposal of prisoners, hence the preamble of the Act which contains the acknowledgement of the 'dignity and worth of the human person' vis-à-vis the provisions of section 1 (a) of the Bill which provide the individual with right to 'liberty, Security of the person' and the right not to be deprived thereof except by due process of law¹³. The phrase 'due process of law' as used in section 1 (a) is to be construed as meaning 'according to the legal process recognized by parliament and the courts in Canada¹⁴.

¹¹For example, see the Inter-American Convention on Human Rights, Nov, 22, 1969, 36 O.A.S.T.S. No 36, at 1 O.A.S OFF Rec. OEA/Ser. L/VIII-23 Rev. 2 reprinted in 2. I.L.M 673, 1970 (entered into force on 18 July, 1978), see also, Timothy YERIMA 'Giving Justice with the Left hand and Seizing it with the Right Hand: Denial of Individual Direct Access to the African Regional Human Rights Courts,' *Kogi State University Bi-Annual Journal Of Public Law* Vol. 3 No. 1, 2010, pp. 40-51 at, p.40

¹² 'Prisoners' Rights in US' <<wikipedia,thefreencyclopedia.http://en.wikipedia.org/wiki/prisoner.right-in-the-United States>> 4.8.2013.

¹³ See *R v. Berry and 7 ors.* (1975) 24 CCC (2nd) 66 (BC) Prov. Ct) also available at <<http://www.canadianprisonlaw.com/misc/billofrights.htm>> 5.8.2013

¹⁴ See *Curr v. The Queen* [1972] SCR 889, 7 CCC (2d) 181, 26DLR (3d) 603, 18 CRNS 281

Republic of Turkey,

In the Republic of Turkey, part two of the constitution is specifically on the fundamental rights and duties. It is clearly stated in that constitution that; 'Everyone possesses inherent fundamental rights and freedom which are inviolable and inalienable'¹⁵. Even during war, mobilization, martial law or state of emergency when individual rights may be suspended partially, the constitution still guaranteed...the individual's right to life, and the integrity of his or her material and spiritual entity shall be inviolable except where death occurs through lawful act....¹⁶Though the extent to which these fundamental rights are exercisable especially by prisoners in Turkey is a bit controversial. While some opined that despite attempts at reform, torture and abuse in Turkish prisons are still rampant.¹⁷ Some other report reveals that since 2007 after the cry-out of Human Rights Association of Turkey on violation of human rights in Turkish prisons, condition in Turkish prisons have been improving¹⁸ to the extent that the Parliament's Human Right Commission was once reported to have commended both Mardin and Kocaeli prisons for less case of torture and other in human treatment¹⁹. However, despite these conflicting reports, Human rights in Turkey are protected by a variety of international law treaties which take precedence over domestic legislation, according to Article 90 of the 1982 Constitution.²⁰ The Republic of Turkey has entered into various human rights commitments²¹ and signed a number of International Treaties²²

India

Keeping in view the great ideals of Mahatma Gandhi and the growing consciousness towards international human rights movement the framers of the constitution of India provided for fundamental rights in the constitution.²³ With the advent of independence, the constitution of India not only recognised and incorporated in its part III various human rights and fundamental freedoms contained in international instruments but also provided mechanism for either enforcement. India constitution was adopted on November 26, 1949 and all its provisions came into force on 26th January, 1950.

Article 21 of Indian Constitution, among others, is the embodiment of wide range of human rights a single sentence of that Article 'No person shall be deprived of his life and personal liberty except according to procedure established by law' become a perennial source of human law. Article 21 guarantees right to human dignity even to prisoners. In fact right to human dignity belongs to all human beings inside and outside prison²⁴

¹⁵ See Article 12, of the Constitution of the Republic of Turkey. The restriction of these rights and prohibition of its abuse are contained in Article 13 and 14 of the constitution Article is const of help time.

¹⁶ See Article 15, of the Constitution of the Republic of Turkey.

¹⁷ See 'Torture and abuse rampant in Turkish prisons, despite attempts at reform' <<<http://www.globalpost.com/dispatches/globalpost.blogs/rights/turkish/prisons-torture-abuse>>>,6.8.2013

¹⁸ See 'Turkey-Prison –Conditions and the treatment of prisoner in Civilian and T-Type prisons, including the prevalence of torture and the state response to it (2006-2007' <<<http://www.refworld.org/docid/47d6547e23.htm>>> 5.8.2013

¹⁹ <<<http://www.globalpost.com/dispatches/globalpost.blogs/rights/turkish/prisons-torture-abuse>>> 6.8.2013

²⁰ 'Human Rights in Turkey'-Wikipedia, the Free Encyclopedia <<<http://en.wikipedia.org/wiki/Human-rights-in-Turkey>>> 2.8.2013

²¹ See part 2 Turkey constitution 1982 which borders on Fundamental Human Rights and Duties

²² Amongst the international treaties signed by Turkish Republic are the Universal Declaration of Human Rights which was signed in 1949 and the European Convention on Human Rights 1954 which places Turkey under the jurisdiction of the European Court of Human Rights (ECtHR)

²³ KALPANA, 2009, pp. 840-841

²⁴ *Ibid*, p. 841

Amongst the array of prisoners' rights recognized by the Indian Constitution as well as corpus of India Supreme Court reports according to Bharadwaj²⁵ are Right to free legal aid²⁶ Right to speedy trial²⁷ Right against handcuffing²⁸, others are, Right against inhuman treatment, Right against public hanging and prisoner's Grievances²⁹.

South Africa

In South Africa, the constitution of the country especially Act 108 of 1996 as adopted on the 8th May 1996 and amended on the 11th October 1996 is founded on the values of human dignity, the realization of justice, the promotion and advancement of human rights³⁰. Amongst the rights enshrined in the South African constitutions as fundamental are rights to education, right against cruel, inhuman to degrading treatment, fair hearing. In the case of prisoners, apart from the fact that they are entitled to the above rights, they also have right of notification of illness or death of their family while in prison, right of complain, right to legal representation. Furthermore, according to Lebogang³¹ upon admission, inmates are to be provided with written information regarding rules and regulations governing their treatment in a specific category, the legalized procedures of seeking information and making grievances, and all matters appropriate enabling inmates to comprehend both his/her right as well as his/her obligations so as to adapt to the life of the correctional institution.

4. Fundamental Human Rights: The Nigerian Experience

In the Nigeria case of *Ransom-Kuti v. A.G Federation*,³² Eso JSC said of fundamental human rights thus;

It is a right which stands above the ordinary laws of the land and which in fact is antecedent to political society itself. It is a primary condition to civilized existence... and what has been done by our constitution --- is to have these rights enshrined in the constitution so that the rights could be immutable to the extent of the immutability of the constitution itself.³³

This position was further elucidated in the Vienna Conference of 1993, where it was concluded that,

All human rights are universal, indivisible, inter-dependent and inter related --- while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of states, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.³⁴

²⁵ *ibid*

²⁶ As held in *M.H. Hoskot v. State of Maharashtra* AIR 1978 S.C. 1548

²⁷ As held in *Anil Rai v. State of Bihar* AIR 2001 S.C 3173

²⁸ As held in *Prem Shanker v. Delhi Administration* AIR 1980 S.C. 1535

²⁹ KALPANA *op cit*, p. 841

³⁰ Lebogang MORODI 'The Constitutional rights of prisoners within the South African Criminal Justice System' <<www.Criza/downloads/rights.pdf>> accessed 5.8.2013

³¹ *Ibid*, see also Prison Administration Act of South Africa

³² (1985)2 NWLR (Pt. 6)211

³³ Olokooba S.M. et al, *op.cit*, p 106

³⁴ See Part 1 Paragraph 5 of the Vienna Declaration and Programme of Action, Adopted following the UN World Conference on Human Rights Vienna, June 1993, see also Faga HEMEN, 'Inter Armies, Silent Legis? Human Rights as a Causality in the Fight against International Terrorism,' *EBSU Journal of International Law and Juridical Review*, Vol.1, 2010, pp.119-147 at, p.126. see also Olokooba S.M. et al, *op.cit*, p 106

According to Umozurike, human rights are:

...claims, which are invariably ethics which should be supported by law, official managers, by individuals or groups on the basis of their humanity. They apply regardless of race, colour, sex, or other distinction and may not be withdrawn or denied by government, people or individual. They are those rights which every individual claims or aspires to enjoy irrespective of his colour, race, religion, status in life, etc³⁵.

Human Rights have been classified or categorised as civil, political, social, economic and cultural rights and this is to ensure that every human endeavor is adequately covered in terms of enjoyment protection and preservation of rights. It is worth noting that so far in Africa region, the people's rights are adequately protected by the most comprehensive expression of such rights in the 1981 African Charter on Human and People's Rights³⁶. According to Ajomo³⁷ 'Human rights are not a new morality just developing in contemporary society. The history of Human rights is one antiquity. Indeed among philosophers and politicians, there have from time immemorial been discussions as to how rights have come into existence and, more specifically, what their origin, scope and deeper meaning might be.

From the foregoing, it is trite to say that the universality of human rights is inalienable. It is a right that is naturally belonging to every human being not withstanding their colour, sex, race or social status. The deductible inference here is that, being a prisoner should not serve as a barrier to the enjoyment of human rights. What is understood as human right is inalienable to the extent that it is natural and inherent in man in the sense that man (human being) was not given any attempt to take it away from human being will be an affront against human nature.³⁸ Elucidating on fundamental rights Kayode Eso (J.S.C) stated: 'But what is the nature of the fundamental right; it is a right which stand above the ordinary law of the land and which in fact is antecedent to the political society itself. It is a primary condition to a civilized existence³⁹.

4.1 Prisoners Rights in Nigeria: Aberration or Conformity?

In Nigeria, prisoners' problem starts from conviction stage. Once convicted and turned to a prisoner, most Nigerian believed that such a person does not have any rights again. For this, even though, a convicted person who has Appeal against his case is entitled to bail, getting bail at that stage most times proves tough. Bail which simply is a procedure by which a person arrested for an offence is released on security being taken for his appearance on a day and place certain. The right to bail is more constitutional than it is statutory or within the inherent power of the court. The right to bail is an embodiment of the right to personal liberty, fair trial and freedom of movement. When bail is granted a suspect, an accused or a convicted person is granted a temporary released from custody pending the conclusion of investigation and the determination of the case against him, or pending determination of

³⁵ Umozurike UGO O., *The African Charter on Human and People's Rights*, The Hague: Martinus Nijhoff Publishers, 1979, p.4 see also, Benjie OGWO 'The Influence of Natural Law on Human Rights in Nigeria: The *Bokko Haram* Dimension', *Port Harcourt Law Journal*, Vol.14 No.1, 2012, pp.162-177 at, p.167. Olokooba S.M. et al, op.cit, p 106

³⁶ *Ibid*, 168

³⁷ M.Ade AJOMO 'Human Rights and the Nigerian Judiciary' in Elias JOHN and Mike JEGEDE (Eds.) *Nigerian Essays in Jurisprudence*, Lagos M.I.J. Publishers Limited, 1993, pp.347-362 at, p.350

³⁸ OGWO op.cit, at, p. 165

³⁹ Kayode ESSO as cited in Sarinus KABO 'Religious Rights and Crises in Nigeria, 1999-2007' in Tella SUNDAY and Reuben Ziri (Eds.) *Law And National Security in The Fourth Republic*, IBB University, Lapai, 2010, pp.170-181 at, p.172

his appeal against conviction⁴⁰. Unfortunately in Nigeria, to secure bail is not as easy as the law prescribed. Even after the court might have granted same to a prisoner, the police and the prosecutors always look for ways to frustrate the efforts of the accused person in satisfying the bail condition.

The forgotten inmate plight is the worst. These categories of prisoners are not remembered either to be brought to court regularly or be educated on their further right to bail. In fact according to a 2008/2009 report by the Amnesty International the ‘forgotten inmates’. ‘... never go to court and nobody knows how much longer their detention last simply because their case files are lost⁴¹

These groups of people have been held in prison custody indiscriminately and sometimes exceeding the term of imprisonment they would otherwise have served if they had been convicted for the alleged offence⁴². There have been instances where suspect in Nigeria for a minor offence would be held without a formal charge and not taken to any court for over five years⁴³. This act is clearly against the Nigerian Constitution in that the constitution has explicitly provided that any person who is arrested or detain on a court order or on suspicion that he committed criminal offence must be brought before a court of law within a reasonable time⁴⁴. On what constitute a ‘reasonable time’, the Nigerian Constitution⁴⁵ provides:

- (a) in the case of an arrest or detention in any place where there is a court which has authority to try the case within a radius of 40 kilometers, a period of one day; and
- (b) in any other case, a period of two days or any longer period that is considered by the court to be reasonable

This issue of reasonable days in detention was given effect by Justice Donatus Okoworo of Abuja Federal High Court while admitting Alhaji Attahiru Bafarawa to bail after some weeks of detention by the operative of EFCC without a formal charge. In the word of the court

...though the FCC has every right to detain the applicant upon reasonable suspicion, but section 35 states that such person shall be arraigned before a period of one day where there is a court of jurisdiction within a radius of 40 km if such a person cannot be arraigned within the reasonable period, it is my view and I hold that the EFCC should release the applicant within 24 hours⁴⁶.

Even though Nigerian prisoners are having both pre and post-conviction right, to exercise rights post-conviction is always hard. Ordinarily before conviction, just like every other Nigerians, the prisoners are entitled unlimitedly to all the Fundamental Rights especially as they are entrenched in section 33-43 of the Constitution of the Federal Republic of Nigeria (1999 as amended)⁴⁷. Prior to conviction, a

⁴⁰ Brits OSAMOR *Fundamentals of Criminal Procedure in Nigeria*, Abuja, Dee-Sage Nig. Ltd, 2004, p.80, Athor ALUBO ‘ Appraisal of Essential Considerations for Bail and Bail Process in Nigeria’, *Kogi State Bi-Annual Journal of Public Law*, Vol.3, No1, 2010, pp151-157, at, p.151

⁴¹ Available online << http://www.amnesty.org.uk/new_details.asp?NewshD=17432>>13.10.2012. See also Olokooba S.M. et al, *op.cit*, p 107

⁴² Onoriode EMMA ‘Personal Liberty of a Suspect: A Reflection on Bail in the Criminal Justice System in Nigeria’, *Kogi State Bi-Annual Journal of Public Law*, Vol.3, No.1, 2010, pp.158-164, at, p.158

⁴³ See the case of *Suleiman v COP* (2008) 8 NWLR (pt. 1089), 298. In that case, the suspect was held in prison for over five years without any charges against them. The Nigerian Supreme Court condemned the act.

⁴⁴ Section 35(4)(a) CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (as amended)

⁴⁵ In section 35(5)(a)(b)

⁴⁶ *The Punch* (NIGERIA) 9, December, 7, 2009

⁴⁷ Olokooba S.M. et al, *op.cit*, p 107

prisoner is entitled to a fair hearing of his case as enshrined in section 36(1) of the same Constitution⁴⁸. The importance of fair hearing was amplified in the Nigerian case of *Jemide v Nwanne*⁴⁹ and *SCEN v Nwosu*.⁵⁰ Going by the provision of the Nigerian Prisons Act⁵¹, a prisoners' before trial is also entitled to counsel of his choice⁵² and his plea must be taken voluntarily devoid of any form of intimidation, force or inducement⁵³. Similarly, if an accused so wished he or she may decide not to say anything in exercising his right to silence. After conviction, prisoners' right in Nigeria are curtailed and limited to such rights as right to life, right to dignity of his person, right to fair hearing (on appeal) and right to freedom of religion⁵⁴. All other rights are not easily exercisable.

5. Conclusion and Recommendations

From the foregoing, this paper posits that, the issue of prisoners' rights in Nigeria is an aberration with the way same is handled or treated in other developed countries of the world. While all the prisoners' rights are easily enforceable globally, even though series of rights and benefits are enshrined and stated in the Nigerian Constitution as well as Prisons Act⁵⁵ for the prisoners to exercise; in Nigeria, the categories of rights a prisoner can lay claim to or enforce are just the ones that will allow them to be alive to serve their prison terms. While the awaiting trial are accorded substantial part of human right, the 'forgotten inmate' and convicted prisoners in Nigeria are perceived and categorised as an 'outcast,' and bad eggs' in the society⁵⁶. This makes their case to be the worst one. To check this situation and to make the issue of prisoner rights conform to that which is obtainable in most countries of the world, the following are recommended.

Enforcement of prisoners' right must get a boost. Prisoners should be encouraged to exercise their right either at pre or post-conviction stage. To actualise this, government should put in place a mechanism that will ease the problems, clogs and barriers prisoners usually face while trying to enforce their right. Similarly, a special section of the Legal Aid Council should be created to specifically be in charge of prisoners' right enforcement. This section should be visiting the prisons regularly and take up the issue of enforcing the rights of indigent prisoners in Nigeria. In addition, the Nigerian Non-Governmental Organisation should also sponsor and bankroll the enforcement of rights of indigent prisoners when the cause arises. Finally, an intensive enlightenment programme should be constantly organise in the prison yard to educate the prisoners on their deferent rights.

⁴⁸ See the case of *Jemide v. Nwanne* (2008) ALL FWLR pt 430 wherein the court emphasise the principles of fair hearing as an essential part of human right

⁴⁹ (2008) All FWLR pt 430

⁵⁰ (2008) All FWLR pt 413

⁵¹ Section 45 thereto

⁵² Section 35(2) Constitution of the Federal Republic of Nigeria

⁵³ Section 29(2)(a)(b) EVIDENCE ACT, 2011

⁵⁴ Other rights are as discussed in Olokooba S.M. et al, *op.cit*, p 108-109 are Right to food as stated in section 23 Prisons Act, Right to clothing in section 24 Prisons Act, Right to health and cleanliness, section 28-32, Prisons Act, Right not to be engaged in hard labour on Sunday, or on Charismas day or on good Friday or on two successive Sundays in section 33 Prisons Act, Right to receive a visit from friends in the presence of a prison officer, section 42 Prisons Act, Right of complain to prison visitor or superintendent of prison in section 47 Prisons Act.

⁵⁵ For detail discussion on all these rights, see Olokooba S.M. *et al*, *op.cit*, p 102-114

⁵⁶ *Ibid*. p 103