

## EXAMINATION OF THE COLLABORATIVE ROLE OF THE COURT AND THE POLICE IN THE PROTECTION OF SUSPECTS STATUTORY AND CONSTITUTIONAL RIGHTS.

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### Abstract

*Suspect is someone who is accused or suspected of committing a crime. Every suspect is presumed to be innocent and also enjoy certain basic rights that are inalienable as well as undeniable. These rights are Constitutional and Statutory. All suspects enjoy right to life, dignity of human person, right to freedom of movement, and association, right to be informed of the offence, right to consult a legal practitioner and right to be granted bail or be taken to Court in good time. The Police has the Constitutional power to investigate crime while the Court adjudicate on all matters. In the course of investigation, there could be lawful arrest, search, detention, restriction of movement and prosecution. The process of the investigation should comply with the extant laws. Life of a suspect cannot be taken without court order. The pervasive problems are in the inhuman treatment, degradation, unlawful arrest, over detention, torture and physical abuse of suspect in custody which are clear violation of the suspect rights. This work adopted the doctrinal method of data collection which is basically a desk and library research. This work find out that Police Act 2020 and Administration of Criminal Justice Act 2015 and other laws, brought about robust reforms that gave hope and ensured that suspects rights are guided and protected through fairness, justice, speedy dispensation of cases and award of damages, disciplinary action, cum punitive measures for all erring Police officers The court served as a monitor to all violators of the right of a suspect*

**KEYWORDS:** Rights of Suspect, Constitutional Protection of Rights, Role of Court, Police

## Introduction

The Court and the Police are key players in administration of criminal justice system in Nigeria. Statutorily and Constitutionally the Court adjudicate

<sup>1</sup> while the Nigeria Police investigate<sup>2</sup> all crime committed within Nigeria. In the process of investigation,<sup>3</sup> and enforcement of law and order, there could be arrest,<sup>4</sup> search,<sup>5</sup> detention and prosecution<sup>6</sup> of those indicted with evidence or found to have violated the law. It is imperative to know that the process of detection, prevention and investigation of crime must certainly be in line with the provision of law. The long-aged concept of beating, maltreating, forcing, and degrading a person merely because he is accused of committing an offence is considered as an old fashion and not acceptable. All over the world, the pervasive direction is that every suspect is presumed to be innocent<sup>7</sup> unless and until proven otherwise. In Nigeria the rights of suspect are guided and protection by the constitution and statutory laws.

As often said it is better for one hundred accused persons to go free than one innocent person to suffer.<sup>8</sup> Unlike before, where the procedure was to force suspect to confess, admit their offence, detain for ever and ever, kept for so long without trial, food or even denied the right to know the rationale for their detention in the cell or reason for them being charge to court as the case may be. Every suspect is entitled to right to life<sup>9</sup> and dignity of his person. No Police or any other person has the right to take another person's life for whatever reason it may without going through court or found guilty as provided by law.<sup>10</sup> The constitution protects every citizen irrespective of whether you are a rich

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<sup>1</sup> Section 4 of the Constitution of Federal Republic of Nigeria, 1999 .

<sup>2</sup> Section 4 of the Police Act 2020

<sup>3</sup> Section 3 ACJA, 2015.

<sup>4</sup> Section 38 P.A 2020

<sup>5</sup> Arrest with warrant or without warrant.

<sup>6</sup> Section 174/211 of CFRN, 1999

<sup>7</sup> T.O. Dada, *general Principles of Law* ( Manure-Joe Production Print,1998)

<sup>8</sup> F.A Worrey, *The Prosecutor in Public Prosecution* (Published by Jasedeen Nigeria limited, 2000) P.25

<sup>9</sup> Section 33 and 34 of the CFRN, 1999.

<sup>10</sup> Y.K. George, *Administration of Criminal Justice Act, 2015, With Explanation* (Mike Press LTD,2017)

person, poor, a widow, teacher, teacher, master or a suspect. Being a suspect is not a conclusion that such a person is a criminal or that he has committed the said alleged offence without evidence. The laws manifestly put all state apparatus to respect the right of suspect in all situations. Mere suspicious that led to an arrest of a person is not a conclusion that such person is a criminal.<sup>11</sup> every suspect should be well treated with respect and honour. The courts<sup>12</sup> played a crucial role and also stand firm in the protecting the rights of a suspect. The courts also provide a check on law enforcement agencies ensuring that they do not abuse their powers or violate suspect rights. The 1999 constitution<sup>13</sup> has laid down the rights of the suspects as thus;

### **Suspect's Safeguards under the CFRN 1999 (as amended)**

A suspect/defendant person at law, is a person who has committed an offence, or who is linked to the commission of an offence; and upon the issuance of a warrant of arrest by the appropriate authorities, such person shall be kept in custody not longer than the reasonable time<sup>14</sup> as provided by the law; and thereafter charged to a Court of competent jurisdiction to be tried for the offence. During detention, which should not be an unreasonable period,<sup>15</sup> Moreso, an accused person shall not be subjected to torture or inhumane treatments that are a violation of his Right to dignity of human person, as provided<sup>16</sup> by the CFRN 1999; as such person is presumed innocent until his guilt is proved. The constitutional rights of an accused person are provided in the Constitution of the Federal Republic of Nigeria, 1999 (As Amended). They are as follows:

1. The right to be informed the crime alleged: A suspect/defendant has the right to be informed promptly and, in the language, he understands, the offence he's alleged to have committed, as provided in Section 36 (6) CFRN 1999. Its importance is to give the suspect/defendant an ample time to prepare adequately for his defense. A breach

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<sup>11</sup> J. Bodede, *Criminal Evidence in Nigeria* (Princeton publishing Co. Ltd, (2022)

<sup>12</sup> IGP & Ubah V Ubah & ors (2014) LPELR 23968 ( CA)

<sup>13</sup> Chapter IV

<sup>14</sup> *Nigeria Custom service Board v Chukwuma* (2016) LPELR 41479 (CA)

<sup>15</sup> Section 35(5) CFRN, 1999.

<sup>16</sup> Section 34

of this provision will render the trial a nullity.<sup>17</sup> NB: An exception to this rule is where the accused person is caught in the act of committing the offence.<sup>18</sup> the court held that where a person is arrested committing an offence or strongly suspected to have committed an offence, his arrest and detention is lawful. A suspect cannot complaint In AMYN Investment ltd v EFCC & Ors<sup>19</sup>

Section 35 of the Constitution leave no one in doubt that the section is not absolute. Personal liberty of an individual within the contemplation of Section 35(1) of the Constitution is a qualified right in the context of this particular case and by virtue of Subsection (1)(c) thereof which permits restriction on individual liberty in the course of judicial inquiry or where, lightly as in this case, the appellant was arrested and put under detention upon reasonable suspicion of having committed a felony. A person's liberty, as in this case, can also be curtailed in order to prevent him from committing further offence(s). It is my belief as well that if every person accused of a felony can hide under the canopy of Section 35 of the Constitution to escape lawful detention, then an escape route to freedom is easily and richly made available to persons suspected to have committed serious crimes and that will not augur well for the peace, progress, prosperity and tranquility of the society.

2. Right to fair hearing: The right to fair hearing provides a suspect/defendant<sup>20</sup> with the constitutional backing for his case to be properly heard by the court; as he puts up his defence, Section 36 (1) CFRN 1999. Two Latin maxims border on this safeguard: 'Nemo Judex in causa sua' – which means 'one cannot be the judge in his own case' and 'Audi Alteram Partem' – which means 'both sides must be heard.' In view of these, the principle of fair hearing is applicable at the police and also cuts across all Courts and tribunals.<sup>21</sup> The police should allow the suspect respond to the complainant's allegation. Also, as stated in the case of *Odessa v.*

<sup>17</sup> *Yahaya v. State* [2002] 3 NWLR (PT.) 754.

<sup>18</sup> Section 352 of the Criminal Procedure Act.

<sup>19</sup>(2020) LPELR 58713

<sup>20</sup> *B.C. Okoro, Police and your Rights* (Pricenton Publishing CO,2013)

<sup>21</sup>*Falodun v. Ogunse* (2009) LPELR-CA/IL/35/2008.

- FRN*<sup>22</sup>. For fair hearing,<sup>23</sup> Police and the Court should be able listen and consider the evidence of everybody involved in the case. In a situation where the investigating Police Officer, (IPO) or a judicial officer has interest in any of the parties or the subject-matter, or the outcome of the proceedings; he should refrain from presiding over the matter.<sup>24</sup>
3. Presumption of innocence: Every person suspect/ defendant under investigation or charged with a crime is presumed innocent, until the contrary is proved.<sup>25</sup> In *Idris v State*<sup>26</sup> it was stated that "an accused person is presumed innocent until it is proved otherwise by due process of law." The burden of proof lies on the Prosecution, to prove the guilt of the accused person, as provided for in the evidence Act 2011. The burden of proof lies on the Prosecution, to prove the guilt<sup>27</sup> of the accused person, as provided for in the evidence Act 2011.<sup>28</sup>
- In the case of *Olawoye v. C.O.P*<sup>29</sup> an application for bail was refused at the Magistrates' Court and High Court on grounds that cultism was rampant. Held, the refusal was wrong. However, an exception to this constitutional safeguard is where an accused person is to prove facts within his knowledge, e.g. defense of insanity,<sup>30</sup> intoxication, etc. And also, a convict appealing against his conviction is no longer presumed innocent.<sup>31</sup>
4. Right to adequate time and facilities for defence: As provided in Section 36 (6) B, CFRN 1999, an accused person is to be given adequate time and facilities for the preparation of his defence. The Court<sup>32</sup> is to grant an adjournment to the accused person, in order to secure a counselor attendance of witnesses. As in the case of

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<sup>22</sup> (2006) 3 EFCLR AT 50

<sup>23</sup> Section 36 of the 1999 Constitution.

<sup>24</sup> *Garba v. University of Maiduguri* (1986) 1 NWLR (Pt 18) 550

<sup>25</sup> Section 36 (5) CFRN 1999

<sup>26</sup> (2021) LPELR 54581 (CA)

<sup>27</sup> K. Kharisu Chukkol, *Defence to Criminal Liability in Nigeria Law: A critical Appraisal* (Published by A.B.U Press, 1993)

<sup>28</sup> 135 of the Evidence Act 2011.

<sup>29</sup> (2006) 2 NWLR pt 965 p. 427

<sup>30</sup> Okonkwo and Naish, *Criminal Law in Nigeria* (Spectrum Books Limited, 2009)

<sup>31</sup> J. Bodede, *Criminal Evidence in Nigeria* (Princeton publishing Co. Ltd, (2022)

<sup>32</sup> Y.K. George, *Administration of Criminal Justice Act, 2015, With Explanation* (Mike Press LTD, 2017)

- Akabueze v. FRN*<sup>33</sup>. In capital offences, the Court must grant adjournment once the accused person's counsel is absent.
5. Right to counsel: An accused person has the right to defend himself in person or by a counsel of his choice, as provided in Section 36 (6) C, CFRN 1999. It is also mandatory that an accused person charged for a capital offence, must be represented by a legal practitioner, as provided in Section 352 Criminal Procedure Act.: however, exceptions to this rule are; if the counsel is under legal disability or the right is in abeyance. E.g. the counsel is disqualified from practicing or has not paid his practicing fees; or if the counsel is a foreigner, and has not fulfilled the immigration requirements or conditions to be allowed to appear in Nigerian Court.<sup>34</sup>
  6. Right to examine prosecution's witnesses: This right is provided in Section 36 (6) d, CFRN 1999, and may be exercised personally or through a counsel. Where the Court refused the accused to cross-examine or re-call witnesses that tendered a written document in evidence, it is a breach of this right, as in the case of *Idrisu v. The State*<sup>35</sup> however, Exceptions to this rule are; if the accused person or his counsel ask irrelevant questions and if questions are asked to harass the witness., as provided in Sections 224 – 226 Evidence Act, 2011.
  7. Right to be tried for an offence known to law: Section 36 (12) CFRN 1999, provides that a person shall not be convicted of a criminal offence, unless that offence is defined and the penalty is prescribed in a written law. In *Aoko v. Fagbemi*<sup>36</sup>, the Court quashed the conviction in the case and held that adultery is unknown to the Criminal Code and therefore not an offence. Also, in *A.G Federation v. Isong*<sup>37</sup>, the Supreme Court held that the accused person could not be convicted of unlawful possession of firearms contrary to S. 3 and unlawful possession of ammunition contrary to S. 9 of Firearms Act 1996, because neither

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<sup>33</sup> (2010) 17 NWLR (pt. 1223) 525 at 544

<sup>34</sup> *Awolowo v Min Interna Affairs & Anor* (1952) LLR 177

<sup>35</sup> (1998) 9 NWLR (Pt.566) 389, (1998) 7 S.C (Pt I) 96.

<sup>36</sup> (1961) 1 All NLR 400

<sup>37</sup> (1986) 1 Q.L.R.N 75 at 92-93

of the sections stated the penalty for the alleged offence. Therefore, a person cannot be charged upon a section of law that merely defines the offence without providing for its penalty.<sup>38</sup>

8. Right to silent: Section 36 (11) CFRN 1999, provides that no person who is tried for a criminal offence shall be compelled to give evidence at the trial. An accused person has a right not to say anything at his trial<sup>39</sup> because the prosecution has the burden to prove the accused person's guilt.

Furthermore, when an accused person exercises his right to silence, the prosecutor cannot comment on the accused person's failure to give evidence in his defence, as provided in Section 181 Evidence Act. The right may avail an accused person, where it is manifestly clear that the prosecution has failed to prove the guilt of the accused.<sup>40</sup>

A detriment of this right is that it could be risky to hold on to that right, where an explanation from him could have made a difference; as held in the Supreme Court case of *Igbele v. State*<sup>41</sup> This right however does not apply during the stage of taking plea.

9. Right to one trial to one offence: If an accused person claims he has already been tried, he can raise either of the following: 1. Autre fois Acquit – that he has already been 'acquitted' for the offence he is standing trial for; and 2. Autre fois Convict – that he has already been 'convicted' for the offence he is standing trial for. No criminal proceedings<sup>42</sup> shall be conducted against any person in respect of crime for which the accused person had previously been tried by a court of competent jurisdiction<sup>43</sup> and for which he was either convicted or acquitted, except upon the order of a superior Court. The objection to the charge must be before taking plea.<sup>44</sup>

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<sup>38</sup> B.C Okoro, *Police Law and Your Rights* (Princeton Publishing CO., 2013)

<sup>39</sup> B.C Okoro, *Police Law and Your Rights* ( Princeton Publishing CO., 2013)

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<sup>41</sup> (2006) 6 NWLR (Pt. 975) 100.

<sup>42</sup> E O. Onoja, *Fundamental Principles of Nigeria Criminal Law* ( Green world Publishing Co.Ltd, 2015)

<sup>43</sup> T.A. Aguda, *The Law of evidence* (spectrum Publishing, CO ltd, 1998)

<sup>44</sup> *Edu v. C.O.P* (1952) 14 WACA 163.

10. Right to an interpreter: Section 36 (6) E CFRN 1999, provides that every person who is charged with a criminal offence is entitled to have, without payment, the assistance of an interpreter, if he cannot understand the language<sup>45</sup> used at the trial of the offence.<sup>46</sup>

In *Zaria Native Authority v. Bakari*<sup>47</sup>, it was held that “an interpreter should interpret whatever is said immediately it is said, sentence by sentence; he should not wait till everything has been said, and then state what he remembers of it or what he thinks it was, but should interpret the whole and every part of it. However, it is the duty of the accused person to inform the Court that he does not understand the language of the Court, through his counsel.

### **Suspect/Defendant’s Safeguards under the ACJA 2015**

The introduction of the ACJA 2015, introduces a number of innovations. They are discussed below.

1. Records of arrest: During arrest, the arresting officer should inform the suspect of the reason for his arrest and his right to remain silent until after consultation with a legal practitioner of his choice or a legal practitioner from the legal aid council, if he cannot afford one.

The arresting officer is also required<sup>48</sup> to document details of the suspect- height, photograph, fingerprint or such other means of identifying the suspect<sup>49</sup>. Everyone therefore has the right to be informed of the nature of his offence; his right to be represented by a legal practitioner and a proper documentation of the records of his arrest.

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<sup>45</sup> Okonkwo and Naish, *Criminal Law in Nigeria* (Spectrum Books Limited, 2009)

<sup>46</sup> J. Bodede, *Criminal Evidence in Nigeria* (Princeton publishing Co. Ltd, (2022)

<sup>47</sup> (1962) NWLR 30

<sup>48</sup> A. L Charles and W Paul, *Criminal Investigation: basic Perspectives* (Published by Pearson Ltd, 2009)

<sup>49</sup> s. 6 & 15 ACJA. See also s. 36(6) of the 1999 Constitution (as amended)



2. Arrest in lieu or proxy prohibited <sup>50</sup>. No person is to be arrested for an offence committed by another person. The long-aged practice of arrested father or mother for the offence committed by their children is prohibited. Punishment is personal and can only be enforced on the offender.
3. Timelines: The ACJA has zero tolerance for frivolous adjournments as it sets timelines for legal advice; remand; objection to a charge and day to day trial of a defendant<sup>51</sup> These timelines by the ACJA ensure speedy trial in line with the constitutional provision in s. 36(1) 1999 Constitution that a person charged with a criminal offence is entitled to a fair hearing within a reasonable time.
4. The establishment of a Central Criminal Records Registry (CCRR) at the NPF: The ACJA provides for the collation of records of arrest and the decisions of the court to be kept and transmitted to the CCRR<sup>52</sup>. Prior to the enactment of the ACJA, s. 30 of the Police Act, LFN 2012, provides that such records be destroyed or handed over to the defendant upon his discharged or acquittal.

However, the ACJA now clearly overrides this provision to expunge records by providing for the retention of records in the CCRR, the culture of which has been nonexistent in Nigeria for a long time. This procedure encourages accessibility to data, monitoring, accountability and transparency.

5. Electronic recording of a confessional statement: The ACJA has also provided for the admissibility of electronic recording of a confessional statement on a video/audio disc. <sup>53</sup>
6. Speedy trial: In a bid to amplifying the provisions of the constitution to ensure speedy dispensation of justice, the ACJA makes the following provisions among others:
  - a. Stay of proceedings: the new position of the law now is that application for stay of proceedings shall no longer be heard in respect of a criminal matter before the

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<sup>50</sup> S.7 ACJA 2015

<sup>51</sup> 296, 376, 396 ACJA

<sup>52</sup> . See s. 16 ACJA

<sup>53</sup> See s. 15(4) ACJA and also s. 84 of the Evidence Act, CAP E14, LFN 2004 that makes provision for computer generated evidence to be admissible in Nigerian courts.

court. This unprecedented provision puts a gag on the delays occasioned to the trial process by interlocutory applications to stay proceedings pending appeal on preliminary matters even when the substantive issues are yet to be tried on the merits.

- b. Day-to-day trial: Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial. Where day-to-day trial is impracticable, the Act provides that parties shall be entitled to only five adjournments each. The interval between each adjournment, according to the Act, shall not exceed two weeks each. Where the trial is still not concluded, the interval for adjournments will be reduced to seven days each.
- c. Assignment of information and issuance of notice of trial: By virtue of this section, information filed are to be assigned to courts by the Chief Judge within fifteen days and the Judge in turn, is to issue notice of trial within ten working days of the assignment of the information to his court.
- d. Objection to the validity of charge: Any objection to the validity of the charge or information raised by the defendant shall only be considered along with the substantive issues and a ruling thereon made at the time of delivery of judgment.

Right to Plea bargain: the suspect/defendant has right to initiate plea bargain.<sup>54</sup> Under subsection (4) of section 270, ACJA, the prosecutor and the defendant or his legal practitioner may before the plea charge enter into agreement in respect of the sentence to be recommended to the Judge and guilty plea by the defendant to the offence charged or to a lesser offence. The suspect also has the right to abide or withdraw<sup>55</sup> from the plea bargain.<sup>56</sup> Plea Bargain is defined in *Albert v FRN*<sup>57</sup>

Plea bargain can be by way of charge bargain or sentence bargain. Charge bargain is a plea bargain in which a prosecutor agrees to drop some of the counts or reduce the charge to a less serious offence in exchange for a plea

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<sup>54</sup> Section 270(4) ACJA, 2015

<sup>55</sup> Section 270(7) ACJA, 2015

<sup>56</sup> *Roomrig Nigeria Ltd v FRN (2014) LPELR 22759(CA)*

<sup>57</sup> (2021) LPELR 56144(CA)

of either guilty or no contest from the defendant while Sentence bargain is a plea bargain in which a prosecutor agrees to recommend a lighter sentence in exchange for a plea of either guilty or no contest from the defendant.

### **Suspect/Defendant's Safeguards under the Police Act, 2020**

The Police Act 2020 was specifically amended to among other things promote and protect the right of persons in Police custody as guaranteed by the Constitution<sup>58</sup>

#### **1. A Person shall not be arrested in place of a suspect**

It is a trite law that no person can be unlawfully arrested and detained when he has committed no offence. A person who has committed a criminal offence or reasonably suspected to have done so, may be arrested for the purpose of being arraigned in a Court of Law. The Police Act 2020 warned heavily the idea of arresting a person for the offence committed by another person. The usual and illegal<sup>59</sup> way of arresting father when the son is not seen is forbidden. Doing so would amount to violation of the fundamental right of that person arrest.<sup>60</sup>

#### **2. Right to remain silent**

A suspect /defendant is protected by law and has the right to remain silent or avoid answering any question until after consulting any person of his choice or a legal practitioner. The suspect can as well refuse to endorse or write any statement unless and until he consults his legal practitioner.<sup>61</sup> it is also the responsibility of the arresting authority to inform the next of kin or the relative of the suspect at no cost to the suspect. The Police as an institution must improve on how to respect the right of a suspect. Right to remain silent is not only accommodated by ACJA and Police Act, but above all a constitutional right of a suspect. By suspect keeping quite or silence is not an offence of disrespect to the Police. The best of what the police IPO can do is to take the suspect to

<sup>58</sup> Section 5 PA, 2020.

<sup>59</sup> *Abuja Leasing CO. LTD v Maidoya & Ors* (2020) 61049 (CA)

<sup>60</sup> *Ifemeje v Umuch community Bank (NIG) LTD & Ors* (2020) LPELR 50623(CA)

<sup>61</sup> Section 35(2)(a)(b) PA 2020.

Court and the Court will *su moto* treat the suspect in the direction of due procedure of law. In *Jibrin v Nigeria Army*<sup>62</sup> the court held that,

It is the constitutional right of the Accused Person to remain silent and donate no iota of evidence to the Prosecution. However, this right has a consequence which is that the learned trial Judge is at liberty to make inferences from vital and incriminating evidence left unchallenged by the Accused Person. Furthermore, where an Accused Person elects to jettison his right to remain silent, whatever he proffers by way of rebutting the case of the Prosecution must be compelling and must meet the basic standard of proof.

### 3. Human treatment of the arrested person<sup>63</sup>

A suspect/defendant shall not be subjected to any form of inhuman treatment, torture, cruel or degrading treatment. The suspect is to be accorded with superb human treatment, having regards to his right to the dignity of human person. Every suspect has right. Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. And when they are protected as legal rights they then become known as fundamental human rights which are protected by the grundnorm of the society i.e. the Constitution of the Federal Republic of Nigeria.<sup>64</sup>

### 4. Notification of the cause of arrest

A suspect/ defendant arrested must be inform immediately<sup>65</sup> the reason (s) for his arrest<sup>66</sup> except when the suspect is in the actual cause of the commission of the offence or is pursued immediately after the commission of the offence or has escape from lawful custody.

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<sup>62</sup> (2021) LPELR 55398 (CA)

<sup>63</sup> Section 36 PA, 2020

<sup>64</sup> *Fort Royal Homes Ltd & Anor v EFCC & Anor @017* LPELR 42807 (CA)

<sup>65</sup> A. M. *Criminal law: Text. Comment & Cases* (Princeton Publishing CO. Ltd, 2018)

<sup>66</sup> Section 35(1)

#### 5. No arrest for Civil wrong

There is no gain saying that the Police has no right to investigate civil cases. Any arrest of a suspect on the basis of civil case or action is breach to the fundamental right of that suspect. The Police must not make arrest for a mere civil transaction.<sup>67</sup> If one can ask Whether the duty of the police includes the settlement of civil dispute or debt collection and in the process make arrest. In *Goni v Haruna*<sup>68</sup> it was held that:

Now, is the Police a debt collection outfit/centre? In *IGP & ORS Vs. GOMBE* (2016) LPELR-40816 (CA), this Court per George will, JCA at pages 30-32 held: "The powers of the Police going by the combined effect of the succinct provisions of Section 214 of the Constitution of Nigeria 1999 as amended and Section 4 of the Police Act 2004 and all other laws enabling the Police to act, are indeed very enormous but yet not left at large and in my view does not cover intermeddling or interfering with the judicial powers of a Court of law

Therefore, for Police to carry out civil transaction has interfered with the court duty and they cannot in anyway make arrest or detain for mere civil wrong. In *Kore v State*<sup>69</sup> the Court held that

As I went through the facts of this case, I was wondering how a purely civil matter could easily metamorphose and transubstantiate into a purely criminal case. The end result now is that the Appellant has suffered irreparable damage, disgrace, shame, odiousness and untold hardship in the hand of the Police that is constitutionally and legally saddled with prosecution of criminal offences. The police have muzzled the rights and freedom of Nigerians even where cases are clearly outside their jurisdiction, power or corridor. If this is not curbed, everybody including the judicial officers will suffer always from floodgates of civil matters being hijacked by the police and transmuted into crimes. If this is not

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<sup>67</sup> Section 32(2)

<sup>68</sup> (2022) LPELR 58525 (CA)

<sup>69</sup> (2020) LPELR 49378 (SC)

tackled, everybody would have suffered in the merciless hand of the police who has become a law unto itself in this country. The primary duty of the Police by Section 4 of the police Act is the prevention of crime, investigation and detection of crime and the prosecution of offenders

#### Right to be granted bail

Bail is a constitutional and statutory right of a suspect. A suspect/ defendant is to be granted an administrative bail in the Police station for an offence other than offence punishable with death.<sup>70</sup> This always comes when it is impracticable to complete investigation, there will be no need to detain the suspect beyond the maximum hours<sup>71</sup> in order not to infringe on his fundamental human right. The Police can always apply to court for the extension of detention days. It is to be noted that there is no obligation on the Police to grant bail and find surety for the suspect.<sup>72</sup> And where you cannot bring surety, the suspect should not complain.<sup>73</sup> Therefore, over detention is unlawful and a violation of suspect human rights. The duty of the Police is protecting the right of everybody as stated in *Nnaji for v FRN*<sup>74</sup>

In any event, one of the core duties of the police as stated in Section 4(d) of the Police Act is to "enforce all laws and regulations without any prejudice to the enabling Acts of other security agencies". By Section 5(1) of the Act, the police force is responsible for promoting and protecting the fundamental rights of persons in police custody as guaranteed by the Constitution.

#### 6. Right to demand for I-D before search<sup>75</sup>

The Police has the right to search the body of a suspect/ defendant arrested committing an offence. Or obtained a warrant where a premises needs to be searched.<sup>76</sup> Where a warrant is

<sup>70</sup> I. O. Agbaili, *Criminal trial and Procedure in Nigeria* (Logic gate Mediate Ltd, 2019)

<sup>71</sup> Section 62 and 63 P.A, 2020

<sup>72</sup> Y.K. George, *Administration of Criminal Justice Act, 2015, With Explanation* (Mike Press LTD, 2017)

<sup>73</sup> *Ekpu v AGF* (1998) Human right Law reports of Africa.

<sup>74</sup> (2024) LPELR 62599(SC)

<sup>75</sup> Section 50(4) PA, 2020

<sup>76</sup> Ibid Section 47

issued, the police officer shall identify himself to the suspect, if not in uniform, shall produce his official identify card, and equally give the suspect a copy.<sup>77</sup>

#### 7. Right of an interpreter

Where a suspect does not understand, write or speak English, an interpreter shall record and read over the statement to the understanding of the suspect before he endorses the said statement. The statement taken must be in the initial language spoken by the suspect before same is interpreter to English.<sup>78</sup> where that is not done, the statement becomes inadmissible in court. It is a Constitutional right of an accused to have the assistance of an interpreter if he cannot understand the language used at his trial. The suspect must not compel to pay the interpreter. In *Musa v State*, it was held that;

Now, by Section 36 (6) (e) of the Constitution FRN 1999 (as amended), every person who is charged with a criminal offence shall be entitled to have, without payment, the assistance of an interpreter if he cannot understand the language used at the trial of the offence. To give effect to this constitutional requirement

#### 8. The right of a suspect to refuse to collect search record<sup>79</sup>

An officer who carried out a search shall make a written record. It is the right of a suspect to ensure that he endorsed the search record immediately after the search. A searched suspect may refuse to collect a search record that his signature is not appended.<sup>80</sup> Even where the suspect to searched is unwilling to provide detailed of his information about himself, the office is not to detain him, he shall be allowed to go unless unlawful items are found in his possession or in the vehicle searched.<sup>81</sup> When it become necessary for a suspect to be search, the must be carry by an officer of same sex. A male officer is not allowed by law to search a female suspect as the case may be.

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<sup>77</sup> Ibid section 59(4)

<sup>78</sup> *Ahmed v State* (2021) LPELR 56565(CA)

<sup>79</sup> Section 56(4)

<sup>80</sup>Section 56(4) P.A 2020/

<sup>81</sup> Ibid section 56(5)

## Remedies Available for Suspect/Defendants

There are multifarious and multidimensional judicial remedies for victims of human rights violations. Thus, irrespective of the nature of violation, appropriate remedies exist for it. As noted by Oputa, J.S.C: The law is an equal dispenser of justice, and leaves none without a remedy for his right. It is thus a basic and elementary principle of common law that whenever there is a wrong, legal wrong or injuries that is, there ought to be a remedy to redress that wrong.<sup>82</sup>

The High Court has been empowered to hear and determine any application alleging a breach of any of the guaranteed rights to “make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing and securing the enforcement of any rights to which the person (is) entitled.” It is note-worthy that no reference is made in the foregoing provision to specific remedies. In spite of this, the courts in practice, have used and continued to use the traditional remedies such as injunction, writ of habeas corpus,<sup>83</sup> Declaratory judgments, Damages,<sup>84</sup> Order of Certiorari,<sup>85</sup> Order of prohibition,<sup>86</sup> Order of Mandamus,<sup>87</sup> in redressing human rights violations.

## Conclusion

The rights of a suspect are both Constitutional and Statutory. These rights are fundamental and are needed to be protected and all the key players in the administration criminal justice system, The dignity of each person under investigation or undergoing

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<sup>82</sup> J. A. Dada, Judicial Remedies for Human Rights Violation in Nigeria: A critical Appraisal, *Journal of Law, Policy and Globalisation*, (vol. 10, 2013) at [www.iiste.org](http://www.iiste.org) accessed on September 15<sup>th</sup>, 2022

<sup>83</sup> It is used primarily to challenge the detention of any person either in official custody or in private hands. Its utility is to ensure that a person wrongfully detained is released forthwith.

<sup>84</sup> : Damages are monetary awards made to litigants to assuage them for the loss suffered

<sup>85</sup> An order which enables a superior Court to call upon an inferior Court to bring up the record upon which the inferior court based its decision of a judicial or quasi-judicial nature

<sup>86</sup> prohibition is a prerogative order. It lies to restrain an inferior tribunal or body of persons which has a legal authority to determine questions affecting the right of a subject from exceeding its jurisdiction

<sup>87</sup> Mandamus was a prerogative writ directed to some person, or body to compel the performance of a public duty



trial should safe guided. The role of the police and court is crucial in protecting the right of every Nigeria, whether as a suspect or an ordinary individual. The duty of Court and the Police is to uphold rule of law and also promote fairness, justice in a way that will attract public trust and confidence by all and sundry,

Though each suspect has the right to his life, dignity or human person, right to remain silent etc. All these rights can be taken away on the order of court or in situation where the individual commit an offence either simple or felonious offence. Where your right ends another person right begins. you cannot eat a cake and still have the cake. A thief, murderer, assaulter, cheater and the like will have no reason if their freedom of movement is curtailed.

Administration of Criminal justice Act<sup>88</sup> and the Police Act<sup>89</sup> are deliberate efforts put in place to ensure that inhuman treatment, delay in Justice delivery, use of coercion in investigation, detention without release and torturing is put to an end. This is by ensuring that erring police officers and Judicial officers are brought to book The Court collaborate with the Police in the area of supervision and monitoring of all Police detention facilities so as to ensure that the rights of suspect are duly protected.

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<sup>88</sup> 2015

<sup>89</sup> 2020