



FUDMA International Journal of Social Sciences (FUDIJOSS)

Vol. 5, No. 2, September, 2025

ISSN: 2735-9522 (Print) ISSN :2735-9530 (Online)



FUDMA International Journal of Social Sciences (FUDIJOSS), Volume 5, No. 2, September, 2025

**A Publication of
The Faculty of Social
Sciences, Federal
University Dutsin-Ma,
Katsina State,
Nigeria**

ISSN: 2735-9522 (Print)
2735-9530 (Online)



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Publication Fee

Publication fee is ₦30,000 or 150 (USD).

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An Analysis of the Administration of Criminal Justice Act (ACJA) 2015 and the Rights of Awaiting Trial Suspects in Nigeria's Criminal Justice System

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Abstract

This study analyses the Nigerian Administration of Criminal Justice Act (ACJA) 2015 and the rights of awaiting trial suspects in Nigeria's Criminal Justice System (CJS), focusing on constitutional and statutory protections. The study adopted the functionalist (structural functionalist) perspective in its exposition on the premise that it seeks to maintain societal stability by deterring crime and reinforcing shared values, while it utilises Herbert Packer's Due Process Model of the CJS to explore Nigeria's legal system. It further employed a search for relevant studies that were conducted in various databases, including Google Scholar, HINARI, and the Law Pavilion, involving Nigerian inmates from 2015 to 2025. The study emphasizes the presumption of innocence, fairness, protection against state abuse, and procedural integrity, among others, as enunciated by the Due Process model. The essence is to safeguard the right to legal representation, humane treatment, and fair trials for the inmates as part of the overall objective of maintaining a social equilibrium within the Nigerian context of police brutality, judicial rascality, and correctional inefficiencies. It is important to note that ACJA represents a landmark legislative effort that reflects due process principles. Drawing on secondary data, the study discovered that challenges like pretrial detainees, torture, and inhumane and derogatory treatment highlight gaps noticeable in its implementation after ten (10) years of enactment. The study, therefore, recommends administrative oversight, strengthening legal aid, prison decongestion and reform, and eradication of corrupt practices by operators of the ACJA.

Keywords: Criminal Justice, suspect rights, pretrial detention, prison reform, Nigeria

Introduction

The concept of human rights has evolved as a moral, political and legal framework and as a guide for developing a world society free from fear and want. Article 1 of the Universal



Declaration on Human Rights (UDHR), adopted by the United Nations in 1948, refers to the main pillars of the human rights system, i.e., freedom, equality, and solidarity (United Nations, 2019). The aspiration to protect the human dignity of all human beings is at the core of the human rights concept. It puts a human person at the centre of concern. It is based on a common universal value system devoted to the sanctity of life. It provides a framework for building a human rights system protected by internationally accepted norms and standards. Nigeria, as a member of the international community, is committed to upholding these standards. Inmates' rights are enshrined in international human rights instruments, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). These frameworks emphasize the right to dignity, freedom from torture, presumption of innocence, and access to legal representation. Specifically, Article 9 of the ICCPR prohibits arbitrary detention, while the Nelson Mandela Rules mandate humane treatment, adequate living conditions, and access to healthcare for inmates (United Nations, 2019).

Seminal to the development of human rights in human society is the notion of natural law and natural rights advanced by Socrates (470-399 BC) and his philosophical lineage, such as Plato (427-347 BC), Aristotle (384-322 BC), and by extension, Aquinas (1225-1247), Locke (1588-1679) and Hobbes (1632-1704). The concept of natural law and natural rights concerns the protection and well-being of the people. These natural rights, it is said, are granted by God and are inalienable; hence, human laws must take cognizance of these natural rights as dictated by nature itself (United Nations, 2023). The Constitution of Nigeria, 1999 (As Amended) provides for the fundamental human rights in sections 33 – 46 of the Constitution. In furtherance of these basic rights, the Government of Nigeria established the Public Complaints Commission (PCC) and the National Human Rights Commission (NHRC). It also created the Administration of Criminal Justice Monitoring Committee, domiciled in the Federal Ministry of Justice, Abuja. All of these institutions are tailored toward the enforcement of human rights by providing opportunities to suspects and the resolution of human rights abuses (Mohammed, 2025).

The Nigerian criminal justice system is designed in conformity with the constitutional provisions and international convention, which involves the various criminal justice institutions such as the Police, the Court, the Correctional Service, and other bodies established to protect human rights like the Legal Aid Council, the National Human Right Commission, the Public Complaints Commission, the Administration of Criminal Justice Monitoring Committee, and the Bar. However, the CJS has historically been plagued by inefficiencies, including prolonged pretrial detention, inhumane prison conditions, and violations of fundamental human rights.

Furthermore, the Criminal Procedure Act (CPA) applicable to the 17 Southern states and the Criminal Procedure Code (CPC) applicable to the 19 Northern states of Nigeria, respectively, which have been in operation for decades in Nigeria, failed to address systemic issues like prolonged detention and inhumane prison conditions. In confronting these challenges, the Administration of Criminal Justice Act (ACJA) was enacted in 2015 to apply to criminal trials for offences established by an Act of the National Assembly and other offences punishable in the Federal Capital Territory, Abuja (Reason, 2019). The ACJA consolidates CPA and CPC into one legislation to protect suspects' rights in line with constitutional and international standards by introducing several innovative provisions to safeguard suspects' rights,

particularly for pretrial detainees, which essentially address arrest and detention, bail and trial, and victim compensation.

This study, therefore, analyses the extent to which the ACJA has protected awaiting trial suspects' rights, with a population of 53,781, representing 67% of Nigeria's prison population of 80,672, wherein 98% of the awaiting trial persons are male and 2% represent the female gender (NCS website, 2025). In doing this, the work does not undertake a section-by-section analysis of ACJA. On the contrary, specific provisions that have a direct impact on awaiting trial suspects' rights were reviewed.

Materials and Methods

This study employed an exploratory approach to analyse the Administration of Criminal Justice Act (2015) in Nigeria in relation to the rights of awaiting trial suspects. The design integrated qualitative doctrinal analysis with quantitative data from secondary sources to provide a comprehensive assessment. A doctrinal method was used to review legal frameworks, while empirical elements involved content analysis of reports and statistical data. This hybrid approach allowed for an in-depth exploration of legal texts alongside measurable indicators of system performance, such as prison overcrowding, unlawful detention, and inhumane treatment. The research was exploratory in nature, aiming to identify gaps in the ACJA (2015).

The primary materials utilised in this study included legal and policy documents such as the Constitution of Nigeria, 1999; the Criminal Code Act, the Penal Code, the Administration of Criminal Justice Act (2015), and the Police Act (2020). These were sourced from official government repositories and legal databases like the Nigerian Law Pavilion and the Laws of the Federation of Nigeria. Similarly, reports from international organisations such as United Nations including data from the Nigeria Police Force (NPF), the Nigerian Correctional Service (NCoS), and the National Bureau of Statistics (NBS) on arrest statistics, and prison populations from 2015 – 2025; and, equally, scholarly literature such as peer-reviewed articles, books, and theses on Nigeria's criminal justice system were utilised. Data collection occurred between June and August 2025, which involved legal documents that were systematically reviewed using keyword searches (e.g., 'arrest procedures', 'bail procedures', 'court process'. Annotations were made to identify inconsistencies between laws and practice.

Findings

The ACJA contains 49 Parts, with 495 sections covering arrest, bail, trial procedures, sentencing, and correctional administration, with specific provisions safeguarding suspects' rights. In particular, Section 1(1) of ACJA distilled five objectives, which are: to promote efficiency in the management of criminal justice institutions; to promote speedy dispensation of justice; to protect society from crime; to protect the rights and interests of the suspect; and to protect the rights and interests of defendants and victims (Eyongndi, 2021). The ACJA (2015) is a precise or well-organised supervision and harmonisation of the functions of various institutions in the criminal justice system.

Arrests and Detention

The ACJA empowers the Police to arrest suspects. The ACJA, however, made elaborate provisions for the protection of the constitutional rights of citizens who are arrested by virtue of its provisions. For example, section 5 prohibits unnecessary handcuffing, binding, or being subjected to restraint of a suspect except in certain conditions. Similarly, section 6(2) of the ACJA provides the notification of the cause of arrest and rights of suspects, which include

access to legal representation of their choice and rights to free legal representation by the Legal Aid Council of Nigeria, where applicable and notification of the next of kin or relative of the suspect, free. For indigent inmates, the Act encourages legal aid for those who are unable to afford legal services. In the same vein, an unlettered suspect is empowered to engage an interpreter of his choice for statement writing. ACJA forbids the arrest of a person in place of a suspect.

Furthermore, the ACJA prohibits the arrest of a suspect on mere allegations of civil wrong or breach of contract. ACJA in section 8 mandates that suspects should be treated humanely and not subjected to torture or degrading treatment in alignment with the principle of human dignity by prohibiting torture and inhuman or degrading treatment of any human person. Section 8 captured the essence of freedom, equality, and solidarity, which places the human dignity of all human beings at the core of the human rights concept. It is based on a common universal value system devoted to the sanctity of life. The term 'dignity' as in section 34 of the 1999 Constitution (as amended), is determined by the Black's Law Dictionary 8th Edition as "The state of being noble, the state of being dignified, an elevated title or position, a person holding elevated title, a right to hold a title of nobility, which may be hereditary or for life." Similarly, the authors of the 5th Edition Black's Law Dictionary defined the word "torture" as "to inflict intense pain to body or mind for purposes of punishment, or to extract a confession or information, or for sadistic pleasure", "inhuman treatment" as "such mental or physical cruelty or severity as endangers the life or health of the party to whom it is addressed or creates a well-founded apprehension of such danger" and "degrading" treatment as "reviling; holding one up to public obloquy; lowering a person in the estimation of the public; expose to disgrace, dishonour or contempt".

The Act, in section 15, mandated the arresting agency to record the statement of a suspect within forty-eight (48) hours, either an electronic or a written recording of confessional statements to prevent coercion on a retrievable video compact disc or such other audio-visual means where available. It is the right of a suspect to have this statement taken in the presence of a legal practitioner of their choice or the presence of an officer of the Legal Aid Council of Nigeria, an official of a Civil Society Organisation, a Justice of the Peace or any other person of their choice.

Bail and Trials

In demonstrating a new lexicon of freedom, equality and solidarity of a suspect, a suspect is entitled to bail except in the case of an offence of a capital nature. Sections 30-34 of ACJA made adequate provisions for the enforcement of bail by the arresting agencies and the court. It, therefore, means that an officer in charge of a police station shall grant bail to suspects arrested with a warrant or without a warrant on certain conditions. The Act went further to empower the supervising Magistrates in granting bail to suspects denied by the officer in charge of a police station within its jurisdiction.

One interesting aspect of ACJA's provisions on bail pending investigation is that it provides a remedy for a suspect detained in custody. A suspect who is detained beyond 48 hours is at liberty to seek a court of competent jurisdiction's intervention in section 32. Going further to protect the interests of suspects, the ACJA mandates the Police to report to supervising Magistrates on the last working day of every month, the cases of all suspects arrested without warrant within the limits of their respective stations or agency, whether the suspects have been admitted to bail or not, as captured in section 31(1). In the same vein, sections 158-188 of



ACJA have placed a new legal regulation on the courts to grant bail except as otherwise provided by that section. These specific provisions deal with bail pending trial, such as capital offences, felonies, misdemeanours and other offences. These provisions are very laudable as they guarantee the rights of the suspect to personal liberty and will reduce the congestion of detention cells and custodial centres.

The provisions of ACJA stipulate that upon arraignment of a suspect, the trial of the defendant shall proceed from day to day until the conclusion of the trial. The Act only permits five adjournments where a day-to-day trial is impracticable after arraignment. It equally restricted the number of days to a fourteen-day working interval between each adjournment. The essence is to address the issue of "awaiting-trial persons," who constitute 67% of Nigeria's prison population, by imposing strict timelines for trial in section 110 aimed at treating criminal matters speedily, reducing the congested dockets of the court, mitigating overcrowding in custodial centres to the barest minimum, and reducing detention time limits in section 293. Additionally, section 296 allows magistrates to review detention orders, preventing indefinite detention through practices like the "holding charge," where suspects are remanded without formal charges. Furthermore, section 349 imposes a discretionary power on the court to assign to any legal practitioner to undertake the defence of the suspect in the case of a suspect who has no legal representation. It is the aim of ACJA that the court must assign a legal practitioner in defence of a suspect on a capital offence or an offence punishable by life imprisonment within its jurisdiction. At the same time, section 396 frowns at unnecessary adjournments through provision for daily trial proceedings with limited adjournments.

The ACJA introduces a restorative justice approach by shifting from purely punitive approaches to ones emphasising rehabilitation and victim compensation as provided in sections 314 and 319 for wrongfully prosecuted inmates as enshrined in section 35(6) of the 1999 Constitution of Nigeria (as amended). The innovative provisions in the Act represent a bold intervention, enhancing coordination among agencies, which conform with sections 34, 35, and 36 of the 1999 Constitution of Nigeria (as amended).

Discussions of findings

The study sought to analyse the Administration of Criminal Justice Act (2015) with respect to the protection of the rights of awaiting trial suspects in Nigeria. There is no doubt that ACJA has robust and innovative provisions to protect the rights of suspects in detention. However, empirical data have shown that the current practice has no significant difference from the previous systemic problems of the defunct CPA and CPC.

The management of all criminal justice institutions is outside the efficient control of the ACJA. The ACJA itself is a mechanism of social control, which, in tandem with the postulation of the Functionalist perspective, is neither an autobus nor an auto run. Being a mechanism that originated to function in a system, it is a set of related, intertwined elements. The ACJA has no central nervous system of its own. It is like the stomach that cannot fill itself even when empty; it depends on the Police, the courts and the correctional service to realise the goals of mitigating criminality in society. So, the question is, how does the ACJA intend to manage what is outside its control?

Arrest and Detention

The Police occupy a strategic position and play a very vital role in the administration of criminal justice because it is empowered to investigate or detect, arrest and institute criminal

proceedings against any person alleged to have committed an offence. It also has legal or constitutional responsibility to maintain law and order, investigate crimes and arrest offenders. However, the actions of the Force under the control of the Inspector-General has always posed a problem on operation of the ACJA.

Despite the robust provisions of ACJA on case management from the entry point into the criminal justice system, arbitrary arrest and detention, delays and rights violations, which were the systemic problems of the outdated CPA and CPC, have continued to dominate discourse ten (10) years later. The ACJA neither runs nor supervises other institutions involved in criminal justice administration. Therefore, its anticipation of achieving its objectives remains indefinite when it is considered in the light of inherent problems in those institutions, like the problem of unwarranted arrests of suspects and slow pace investigation by the Police resulting in prolonged detention in custodial centres often without trial or conviction, violating the fundamental rights of suspects (Ibrahim, 2019).

Bail and Trial Delays:

The operators of the criminal justice system have continued to deny suspects this right even in the face of liberal provisions on bail as captured in sections 158 – 188 of the ACJA, which has resulted in a high number of awaiting trial suspects. Overcrowding or congestion is the most important reason for the failure of the CJS to meet minimum standards of decency and humanity. ACJA in section 8 mandates that suspects should be treated humanely and not subjected to torture or degrading treatment in alignment with the principle of human dignity by prohibiting torture and inhuman or degrading treatment of any human person. Nigerian custodial centres remain overcrowded, with inmates facing substandard living conditions, including inadequate food and nutrition, poor healthcare and unsanitary conditions, physical and psychological abuses, lack of rehabilitation and recreation and gender-specific issues. The custodial centres operate far beyond capacity (Aminat, 2025). In her findings, delays in the judicial process, lack of rehabilitation programmes, inmates' admission which surpasses inmates' releases, and lack of implementation of non-custodial sentencing options have negatively impacted the objectives of ACJA.

Empirical studies review that prison overcrowding in Nigeria affects the availability of essential resources like food and medical supplies. Additionally, essential services are stretched beyond capacity, and overburdened facilities cannot meet the basic needs of inmates, including a shortage of basic supplies such as beds and sanitation materials (Joseph, O.E., Ogadimma, A.F., Bamidele, R., Oluwakemisola, R., Akintoyese, O.I., and Jide, J.O., 2021; Peter, N.A., Ayinla, N.B., Veronica, A.O., and Igyundu-Iyorwuese, S., 2023; Salami & Mohammed, 2025).

It is also the intent of ACJA to achieve the provisions of sections 35(4)(5)(a)(b) and 36(5) of the Constitution of Nigeria, 1999 (as amended), in particular, which presumes the innocence of a suspect. It says that: "Every person who is charged with a criminal offence shall be presumed to be innocent until he is proven guilty and suspects are required to be brought before a court within 24–48 hours of arrest, except in exceptional circumstances. Delays in criminal proceedings infringe upon the fundamental rights of suspects, including the right to human dignity, fair hearing, and the presumption of innocence. Nigeria's failure to uphold this principle of efficient dispensation of justice leads to routine violations (Ebeku, 2021). The high number of awaiting-trial inmates—approximately 53,781 out of 80,672 total inmates as of 2025 undermines the constitutional right to a fair hearing and speedy trial (sections 34 and 36 of the



1999 Constitution (as amended) and international standards like the United Nations Standard Minimum Rules for the Treatment of Prisoners (NCS website, 2025). The ACJA mandates that criminal trials, once commenced, must be conducted daily, and adjournments must not exceed 14 days unless in exceptional circumstances. In some cases, the waiting periods are often more than the sanctions provided by the criminal codes.

However, the major limitation to the success of these provisions is the lack of sufficient judicial officers to handle the overwhelming number of criminal trials in Nigerian courts. The average duration of criminal trials in Nigeria is between two (2) and seven (7) years. These delays are a result of many adjournments, lengthened appeal trial resolution, and filled dockets of judges (Amakiri & Manuchim, 2025). Several factors also contribute to these delays, such as slow investigation, court adjournments, witness non-appearance, prosecution inefficiency, judicial workload, and prisoner logistics or unavailability (Olugasa, 2020). He further found that corruption and money laundering cases take between 5 and 12 years to be adjudicated on by the court. He further posits that armed robbery, kidnapping, and sexual offences take an average of 7 years before judgment is passed at the court of first instance.

The consequences of delayed criminal proceedings have led to prolonged pretrial detention and congestion in custodial centres, which have impacted the custodial facilities, resulting in a high number of suspects awaiting trial in Nigeria for years without conviction. In a similar vein, delay trials lead to rights abuses of suspects and defeat the aim of ACJA (2015), which sought to protect suspects' rights in line with constitutional and international standards. In addition, when the justice system fails to deliver timely dispensation of justice, public trust and confidence erode, which will lead to vigilante justice or mob action, particularly in an underserved community (Agaba, 2022).

Limited Access to Legal Aid

While the ACJA mandates that suspects have the right to a lawyer of their choice or, if indigent, access to free legal representation, the Legal Aid Council of Nigeria is underfunded and understaffed, leaving many indigent inmates without counsel (Anamoji, 2024). The Legal Aid Council of Nigeria (LACON) was established under the Legal Aid Act of 2011 to provide free legal services to indigent citizens. The lack of access to counsel, especially by indigent suspects, has exacerbated delays in trials and prolonged detention, as inmates cannot effectively challenge their detention or prepare defences.

Similarly, the courts have failed to implement section 349, which mandates the court to assign cases of indigent suspects to legal practitioners within their jurisdiction. The non-implementation of this provision has led to prolonged and unlawful pretrial detention, human rights abuses, erosion of accountability and the rule of law, increased case backlogs and judicial delays. The lack of implementation of section 349 was noted in a 2023 CLEEN Foundation report highlighting the unawareness of magistrates' responsibilities under the section.

Corruption and Abuse of Power

Globally, Nigeria ranks at the very base of corruption. In Transparency International's annual Corruption Perception Index, it repeatedly ranks near the bottom. Out of 180 countries assessed, Nigeria rated 148 in 2017, fell to 144 in 2018 and 146 in 2019. In another development, the National Bureau of Statistics (NBS) in 2017 stated that the Police and the judiciary had the largest proportion of total bribes paid at 33 percent and 31 percent, respectively. Furthermore, a 2020 study by the Independent Corrupt Practices and Other



Related Offences Commission (ICPC) found that the justice sector is the most corrupt, handling ₦9.4bn in bribes from 2018 to 2020 (Punch Newspapers, January 10, 2021). To further confirm the impunity with which the criminal justice system is known, a human rights lawyer, Dele Farotimi, was arrested and handcuffed, paraded as a common criminal in a defamation petition submitted by Chief Afe Babalola (SAN) in December 2024 to the Ekiti State Police Command detained for 21 days until prominent Nigerians intervened in settling the matter out of court (The African Report, December 5, 2024).

Corruption among law enforcement and judicial officers undermines the ACJA's protections. Police often detain suspects beyond legal limits to extort bribes, while "weekend arrests" are used as a pretext for illegal detention (Eyongndi, 2021). Such practices violate the Act's provisions and erode public trust in the justice system. Suspects of offences such as civil defamation, cyberstalking or fraud have been subjected to degrading treatment through handcuffs and public parades when the cases are still under investigation by law enforcement agencies, thereby defeating the objective of promoting the rights and interests of suspects. The unnecessary restraint placed on suspects by law enforcement agents in the course of carrying out their responsibilities is in contravention of section 34 of the 1999 Constitution (as amended) and section 5(a) of ACJA. These and many more abuses of power abound in the Nigerian Criminal Justice System.

Conclusion and Recommendations

No doubt, ACJA is a transformative framework enacted ten (10) years ago to harmonise the existing Criminal Procedure Act (CPA) and Criminal Procedure Code (CPC) for federal offences in line with international best practices. It is a bold attempt to reform Nigeria's criminal justice system and protect inmates' rights. Its provisions on humane treatment, limits on pretrial detention, legal representation, and non-custodial measures align with constitutional and international standards. ACJA is built on Herbert Packer's Due Process Model of the Criminal Justice System (CJS), which illuminates Nigeria's strengths, i.e., constitutional guarantees and weaknesses, i.e., systemic abuses (Packer, 1964).

This paper found that 67% of the inmates' statistics in Nigeria are pretrial detainees, reflecting systemic failures of lack of access to legal representation, delayed trials, and indiscriminate arrest of suspects, which contradicts the Due Process Model position on the equal principle of justice by ensuring indigent suspects access to legal representation. It is the contention of this study that prolonged pretrial detention contradicts the Due Process Model's emphasis on timely trials, with the huge number of suspects awaiting trials. The right to remain silent provided in ACJA section 17 aligns with the Model's protection against forced confessional statements or making statements under duress.

ACJA was enacted to address prolonged detention, arbitrary arrests, and a lack of legal representation. Its provisions on bail, humane treatment, and speedy trials align with constitutional and international standards, offering hope for a fairer justice system. However, the implementation challenge has limited its impact. Therefore, by addressing these gaps, Nigeria can fully realize the ACJA's potential to protect suspects' rights and reduce systemic injustices, which also ensure fair trials and enhance public trust in Nigeria's criminal justice system.

Recommendations

This paper recommends the following:

- i. The Nigeria Police Force should refrain from unwarranted arrest and should also conclude investigation before prosecution to avoid congested detention cells as well as custodial centres. The Police are the entry point into the criminal justice system and, therefore, must be seen to be diligent in their responsibility of protecting citizens and their property against crime. The constitutional responsibility to maintain law and order is not an omnibus route to incivility, corruption and ineptitude. The Police must be civil in their conduct and rebuild the eroded trust of the public they are established to protect.
- ii. The number of judges should be increased to handle the high number of criminal proceedings, and adequate court infrastructure should be provided to aid their assignments. Non-custodial measures, such as community service and parole, should be adopted by the court in sentencing to reduce the prison population. Special courts should also be established to expedite trials for awaiting-trial persons.
- iii. Bail provisions in the ACJA should be implemented as provided;
- iv. The government should invest in prison infrastructure to address overcrowding and improve living conditions;
- v. The Legal Aid Council of Nigeria should be strengthened with full funding and staffing. Each Divisional Police Station in Nigeria should have a staff member recruited by Legal Aid and posted to the station to serve as legal representation for indigent suspects and ensure that their fundamental human rights are well-protected. In the same way, both inferior and superior courts in Nigeria should have a Legal Aid desk office to monitor criminal proceedings and mitigate prolonged criminal trials. In the meantime, the court should invoke section 393 in assigning lawyers to indigent suspects for the speedy trial of criminal cases.
- vi. Anti-corruption measures, including stricter oversight of Police and judicial officers, are essential to curb abuses like illegal detention and extortion. The Independent Corrupt Practices Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) should prioritize investigations over media trials in criminal cases.
- vii. The ACJA should be amended to include a clear mechanism for compensating victims of unlawful detention.



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