



## ADDRESSING THE UNIQUE EXIGENCIES OF INCARCERATED WOMEN IN NIGERIA: ANY LESSONS FROM ZIMBABWE AND THE UNITED KINGDOM?

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### **Abstract**

International correctional practice increasingly acknowledges the gendered dimensions of imprisonment, yet most prison systems continue to reflect a male-oriented model that fails to account for the specific vulnerabilities of women. Utilizing a doctrinal research methodology with comparative tool and interviews, this paper interrogates how Nigeria's legal and institutional framework addresses the exigencies of female incarceration and probes whether comparative insights from Zimbabwe and the United Kingdom can inform reform. Grounded in the constitutional guarantees of dignity under the 1999 Constitution, the Nigerian Correctional Service Act, 2019 and Standing Orders Custodial 2020, the study examines the scope and limits of existing protections. These are situated against international standards such as the Mandela Rules and the Bangkok Rules, which both emphasize proportionality, gender-sensitive healthcare, and non-custodial measures for women offenders. The paper explores the realities of female inmates in Nigeria through interviews conducted in select Nigerian correctional facilities. Comparatively, the paper highlighted the Zimbabwean jurisprudence, which has developed constitutional safeguards around dignity and oversight, and the UK which has established statutory and policy frameworks addressing restraints, reproductive healthcare, and community-based alternatives to custody. By synthesizing these approaches, the paper identifies systemic gaps in Nigeria's custodial system and argues for reforms that strengthen gender-responsive practices, embed international human rights obligations, and expand community sentencing for women. The contribution lies in demonstrating that the humane treatment of incarcerated women is not only a legal imperative but also a measure of societal justice.

**Keywords:** correctional practice, female inmates, legal and institutional frameworks, Nigeria, comparative insights

### **1. INTRODUCTION**

All incarcerated individuals are entitled to receive humane treatment and due regard, free from any treatment or retribution that involves torture, acts of cruelty, inhumanity, or degradation without exception.<sup>1</sup> Gradually, the philosophy of imprisonment is now shifting

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from using it as a tool of retributive justice to reformation, with the hope of reforming prisoners and absorbing them back into the society as better citizens. It is against this philosophy that prisoners need to be treated as the human beings that they are and should not be subjected to degrading and inhuman treatment which could make them embittered and go back to the society with wounded psyche which will make the society the worse for it.<sup>2</sup> Sentencing a convict to a prison term is meant as punishment and not for punishment; therefore, prison authorities have to be accountable for the manner prisoners are treated, especially regarding their wide discretionary powers.<sup>3</sup> Part of the reasons behind incarceration of offenders is to rehabilitate and reintegrate them back into the society.<sup>4</sup>

Imprisonment is difficult for everyone, though to varying degrees and for different reasons. Certain groups of inmates are more vulnerable than others. Imprisonment spells varying implications for not just the persons that are curtailed, but the institutions or arms of government designated to carry out the curtailment and the families of incarcerated persons as well. Special and specific exigencies of inmates are occasioned by factors such as their biological and physiological composition as well as their physical or mental disabilities, which could make them more vulnerable than others. Further, some classes of inmates are not just more vulnerable, they are twice as much. Female inmates are double vulnerable. A pregnant 45-year-old female inmate who is mentally ill is not exposed to the same amount of vulnerability as any other inmate. She is a doubly vulnerable inmate because her vulnerabilities become exacerbated by virtue of the interplay between her sex/gender and the compounding issues of vulnerability.<sup>5</sup>

Upholding the principle of non-discrimination within correctional facilities necessitates that prison authorities address the distinct needs of individual inmates through personalized and responsive interventions. Safeguarding the rights of inmates with specific vulnerabilities is a critical obligation and should not be mistaken for the granting of undue privilege.<sup>6</sup> Accurate classification of inmates serves as the cornerstone of effective and equitable treatment. Nonetheless, it remains uncertain whether within the Nigerian correctional system, women who experience intersecting forms of vulnerability are appropriately identified, classified, and supported along each axis of their vulnerability.

Women comprise the minority of prisoners around the world, constituting an estimated two to nine per cent of national prison populations. However, the number of female prison population has increased significantly over the last decade in some countries, and at a

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<sup>1</sup>Rule 1, United Nations Standard Minimum Rules for the Treatment of Prisoners 2015 (The Nelson Mandela Rules)

<sup>2</sup>Marcus, A.A. 'Prisoners' Rights under the Nigerian Law: Legal Pathways to Progressive Realization and Protection' [2015] (6)(1) *Afe Babalola University: J. of Sust. Dev. Law & Policy*; 171.

<sup>3</sup> *ibid*, 171-172; Jon Vagg, *Prison System- A Comparative Study of Accountability in England, France, Germany and the Netherlands* (Clarendon Press, Oxford 1994).

<sup>4</sup>Marcus, *supra* note 3, p. 177.

<sup>5</sup> Florencia Luna, 'Situated Vulnerability: A Study of the Ethics of Care for the Vulnerable (2009)' in C Escalante and A Orozco (eds.), *Ethics and Vulnerability* (Springer 2020) Chapter 8.2.

<sup>6</sup>The Nelson Mandela Rules, Rule 2(2).



greater rate than for men.<sup>7</sup>In contrast to male prison populations, women mainly commit pettycrimes, theft and fraud and studies have demonstrated that prior emotional, physical, and/or sexual abuse contributed to women's criminal behaviour. Due to their economic status, they are particularly vulnerable to being detained because of their inability to pay fines for petty offences and/or to pay bail.<sup>8</sup>As of 26<sup>th</sup> December, 2022, there are 72,051 inmates spread across about 240 correctional facilities in Nigeria. 1563 of those inmates are women.<sup>9</sup> Although other severe implications follow these figures, this paper focuses on the unique exigencies of female inmates. Female inmates in Nigeria have unique exigencies requiring acknowledgment and individualized solutions in line with international best practices and standards.

As earlier stated, effective categorisation remains a primary tool in the proper correction of inmates and effective management of correctional facilities. Categorisation inherently entails identifying fundamental or minimal standards for the treatment of inmates, as treatment is not left to the goodwill or pleasure of caregivers and managers of the facilities. The Nigerian Correctional Service Act, 2019 (NCSA, 2019) and other international instruments provides for the treatment of female inmates. In Nigeria, significant provisions of the United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015 (The Mandela Rules) as well as other notable international instruments have been domesticated into the NCSA, 2019.<sup>10</sup>

Thus, the intendment of legislation is for the human rights and personal dignity of female inmates in Nigeria to be, in compliance with international standards and requirements. The question, however, is: are the intendments of legislation being progressively translated into the experience of the Nigerian female inmate? Are female inmates properly categorised in the real sense of it? Do managers of correctional facilities take cognizance of the multiple categories of vulnerabilities female inmates can fall into, thereby making them not just more vulnerable than their male counterparts, but double vulnerables? How adequate, in terms of facilities and categorisation, are the provisions made for female inmates in Nigeria?

## **2. IMPRISONMENT AND THE LEGAL REQUIREMENT FOR PRESERVATION OF DIGNITY OF THE PERSON OF THE FEMALE INMATE**

This section examines imprisonment and the legal requirement for preservation of dignity of the person of the female inmate in the light of the Constitution of the Federal Republic of Nigeria (CFRN) with the support of case law, 1999, The Nigerian Correctional Service Act, 2019 (NCSA, 2019), and the Nigeria Correctional Service Standing Orders Custodial (Revised Edition) 2020.

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<sup>7</sup>Maartje Krabbe and Piet Hein van Kempen, 'Women in Prison: A Transnational Perspective' in Kempen P.H.P.H.M.C. van and Krabbe M.J.M. (ed), *Women in Prison. The Bangkok Rules and Beyond = Femmes en prison. Les règles de Bangkok et au-delà*, p. 25.

<sup>8</sup>Penal Reform International, Briefing: Access to Justice Discrimination of Women in Criminal Justice Systems (January 2012) p.1 <<https://cdn.penalreform.org/wp-content/uploads/2013/08/BRIEFING-Discrimination-women-criminal-justice.pdf>> accessed 10 August 2025.

<sup>9</sup>Nigerian Correctional Service Annual Report 2022.

<sup>10</sup>Thanni, D.A. 'Female Inmates and Young Offenders: A call for the Implementation of the Nigerian Correctional Service Act, 2019' [2023] (130) *Journal of Law, Policy and Globalization*, 11-16.



## 2.1 The Constitution of the Federal Republic of Nigeria (CFRN) 1999

The Constitution is the major national instrument that spells out fundamental rights of individuals including prisoners. Amongst the fundamental human rights identified by the Constitution as inalienable to everyone, regardless of having being imprisoned is the right to dignity of person. Section 34 of the CFRN, 1999 expressly provides that: Every individual has the right to be treated with dignity and respect. Consequently, no one shall be subjected to torture, inhuman, or degrading treatment. Furthermore, no person shall be held in slavery or servitude, nor be compelled to engage in forced or compulsory labour, save any labour required in the consequence of the sentence or order of a court among other exceptions.<sup>11</sup>

Also, in the case of *Peter Nemi & Ors v Attorney General of Lagos State*,<sup>12</sup> the appellant had been on death row for eight years. He argued that his fundamental human rights of freedom from inhuman and degrading treatment had been breached. The prosecution counsel asserted that as a condemned prisoner, he had no fundamental human rights after conviction and sentence. In rejecting this argument, the Court of Appeal per JCA Uwaifo queried: “Does it mean that a condemned prisoner can be lawfully starved to death by the prison authorities? Is a condemned prisoner not a person or an individual?”<sup>13</sup> Still on the right of inmates to dignity of human person, the Supreme Court *Peter Nemi & Others v State* held that, where a condemned prisoner is to be deprived of his life, it must be done in accordance with the law.<sup>14</sup> Therefore, a common situation in Nigeria whereby persons who have been sentenced to death by competent Courts of law are kept on the death row in prison facilities indefinitely wherein they are subjected to serious psychological trauma will amount to violation of their rights to dignity of human person.<sup>15</sup>

The implication of the constitutional provision of section 34 of the CFRN 1999 and the pronouncements of the Court of Appeal in *Peter Nemi & Ors v Attorney General of Lagos State* and the Supreme Court in *Peter Nemi & Others v. State*, is that on no account should a prisoner be subjected to any form of degrading, inhuman, cruel and unacceptable standard of treatment. Therefore, irrespective of the term of imprisonment or the gravity of the offence committed by a prisoner, the prisoner being a human being is entitled to certain minimum standard of treatment.<sup>16</sup> However, it has been observed that Nigeria prison system has not done well in this regard as inmates in Nigeria prisons are subjected to torture, beating, threat, and forced labour, among others. Female inmates find it worse as they are often subjected to sexual harassment and rape by male inmates and even male prison staff.<sup>17</sup>

It is essential that persons in correctional facilities receive treatment that is as individualized as possible, to ensure that their human rights are neither violated nor unduly restricted. Incarcerated persons are, first and foremost, human beings whose dignity must be upheld at all times, regardless of the nature or gravity of the offences they are accused or

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<sup>11</sup>CFRN 1999, s 34.

<sup>12</sup>(1996) 6 NWLR (Pt 452), 42.

<sup>13</sup> *ibid.*

<sup>14</sup>*ibid*; See Akintunde, A.A. ‘Protection of Human Rights of Female Inmates with Wards in Nigerian Correctional Facilities’ [2019] (2)(1) *Journal of Law and Judicial System*, 41.

<sup>15</sup>Akintunde, *ibid.*

<sup>16</sup>The Nelson Mandela Rules, see Rules 1, 47, 50, 19 and 24.

<sup>17</sup>Akintunde, *supra* note 14; Ebonwa O.L., Behind the Wall, a Report on Prison Conditions in Nigeria and the Nigerian Prison System (Civil Liberties Organization 1996) pp. 199-205.



convicted of.<sup>18</sup> Denying individuals their humanity does not contribute to their rehabilitation or reintegration into society. Affirming their humanity, on the other hand, is more likely to yield positive outcomes. While certain rights may be lawfully limited under specific circumstances as provided by the Constitution of the Federal Republic of Nigeria (CFRN), 1999, it is particularly relevant, in the context of incarceration, to consider the permissible derogations from the rights to life and personal liberty.<sup>19</sup>

Nigeria is a death penalty retentionist country, and the constitution provides for instances where a person's life may be validly taken away.<sup>20</sup> Although, the deprivation of life is about the most severe punishment, the law requires this to be done with dignity. For instance, in the famous case of *Aliu Bello v Attorney General (AG) of Oyo State*<sup>21</sup> where one Nasiru Bello who had been convicted of armed robbery by the High Court of Oyo State and was sentenced to death had filed an appeal against his conviction. Surprisingly, while his appeal was still pending before the Court of Appeal, the AG of Oyo State recommended his execution. He was promptly executed. The execution was declared illegal by the trial court and this was upheld by the Court of Appeal and the Supreme Court. The Supreme Court per Oputa JSC also held that the premature execution of Nasiru Bello constituted a blatant infringement of the deceased's fundamental right to life.<sup>22</sup>

Thus, a person condemned to death is still entitled to his fundamental rights to life and human dignity pending his execution.<sup>23</sup> No person shall be denied his right to personal dignity, irrespective of the seriousness of the punishment served or the nature of his status. Even the inmate who has been sentenced to death will have his dignity preserved up until execution, a procedure that shall be carried out bearing in mind the need for the protection of the dignity of the condemned. All inmates are to be accorded respect for their personal dignity, with emphasis on the special needs of specific groups. Failure in this regard amounts to a violation of their inherent human rights. The observance of the right to dignity of inmates remains the focal point of correctional practices, and female inmates are especially deserving of this, bearing in mind their unique vulnerabilities. Therefore, it is an obligation as well as the basic duty of the prison officials to protect the right to life and human dignity of the accused or convicted offender.<sup>24</sup>

## 2.2 The Nigerian Correctional Service Act 2019 (NCSA 2019)

The NCSA 2019 recognizes the need for the preservation of dignity of the person of the female inmate in the light of the unique needs of female inmates. The Nigerian Correctional Service Act 2019 (NCSA, 2019) provides that male and female inmates shall not be kept in the same facility.<sup>25</sup> Section 34 of the NCSA, 2019 expressly provides that:

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<sup>18</sup> Thanni, supra note 10.

<sup>19</sup> *ibid*

<sup>20</sup> See CFRN, s 33.

<sup>21</sup> (1986) 5 NWLR (Pt 45) 828.

<sup>22</sup> *ibid*; See Alaba, I.K. 'The Rights of Detained and Condemned Prisoners in the Nigerian Correctional Facilities – A Synopsis of the Legislative Framework' (2021) (9)(1) *Journal of Law and Criminal Justice*, 10.

<sup>23</sup> Alaba, *ibid*, p. 11.

<sup>24</sup> *ibid*.

<sup>25</sup> NCSA 2019, s 34(1).



The Correctional Service is responsible for providing all necessary facilities to meet the specific needs of female inmates, including their medical and nutritional requirements. This applies particularly to pregnant women, nursing mothers, and babies residing in custody with their mothers. These provisions shall include the establishment of a crèche in every female custodial facility to ensure the well-being of infants in custody, alongside access to prenatal and antenatal healthcare services, as well as adequate sanitary supplies for female inmates.<sup>26</sup> Since this provision of section 34 of the NCSA was made in 2019, it is unclear what new exclusive female facility has been constructed in Nigeria. The obtainable practice is to have a female wing carved out within a male facility, and there are only a handful of exclusive female facilities.

To further protect the dignity of the person of female inmates, section 15 of the NCSA provides that inmates (including female inmates) shall not be held in slavery or servitude, and labour carried out by inmates, even inmate sentenced to imprisonment with labour, shall neither be of an afflictive nature or for the personal benefit of any correctional officer.<sup>27</sup> Subsection 6 of section 15 further provides that an inmate may be engaged in such labour as may be necessary to keep the Correctional Centre environment clean or for the general purpose of their wellbeing.<sup>28</sup>

### **2.3 The Nigeria Correctional Service Standing Orders Custodial (Revised Edition) 2020 (NCSSOC 2020)**

The general principle applicable in the management of female inmates is that they are treated by female officers only, except in violent cases where extra security that can only be provided by male officers is required.<sup>29</sup> Order 182 provides that female inmates must be escorted by female officers only. This is a crucial safeguard reflecting international human rights standards on the treatment of incarcerated women.<sup>30</sup> Its primary purpose is to protect female inmates from potential sexual harassment, abuse, or intimidation, which may occur when they are placed under the control of male escorts. This measure recognizes the gendered nature of vulnerability in correctional institutions and aligns with the Bangkok Rules, which emphasize the importance of gender-sensitive approaches in prison administration. The discretionary power given to the Superintendent to attach a male escort is however a point of concern. The need for additional security may justify the exercise of this discretion, but room for possible abuse is also created. Although the Standing Orders further in Rules 184-205 provides guidelines generally applicable to the escort of both male and female inmates, there are no clear guidelines on the circumstances under which male escorts may be attached to female inmates, or in other words, what 'violent or unruly behaviour on the part of the female inmate'<sup>31</sup> connotes. In addition to very clear guidelines as well as strict

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<sup>26</sup> *ibid.*

<sup>27</sup> *ibid.*, ss 15(1) & (2).

<sup>28</sup> *ibid.*, s 15(6).

<sup>29</sup> NCSSOC 2020, Order 182.

<sup>30</sup> See generally the United Nations General Assembly, *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, A/RES/65/229 (21 December 2010) (hereinafter, the Bangkok Rules).

<sup>31</sup> See NCSSOC 2020, Order 183.



oversight required to ensure that the provision does not undermine its protective intent, it is important to incorporate a section providing that female inmates are treated by female officers only, except in listed exceptions.

Female inmates are prone to heightened risks of humiliation and re-traumatization. A dignity requirement is to ensure that restraints are reserved as a last-resort safety measure rather than routine control.<sup>32</sup> Order 183 provides for the prohibition of the use of handcuffs or wrist-cuffs on female inmates, except in narrowly defined situations where violence or unruly conduct is envisaged or considered ‘likely’. This is however subject to authorization by the Superintendent. The provision of Order 183 embodies the baseline principles of necessity, proportionality and least-restrictive means in custodial settings. Thus, the provision of ‘likelihood’ of violence should be determined through an objective, documented risk assessment, not vague prediction or convenience, and only after de-escalation and other non-coercive options have been explored and proved inadequate. Such authorization should also be time specific and not continuously used for the same inmate. Restraints should never be used as punishment, never during labour, birth or the immediate post-partum period, and strongly avoided in clinical encounters or where they interfere with medical care.<sup>33</sup>

### **3. THE PROTECTION OF THE RIGHTS OF FEMALE PRISONERS UNDER INTERNATIONAL LAW**

This section examines the protection of the rights of female prisoners under international law with focus on the United Nations Standard Minimum Rules for the Treatment of Prisoners 2015 and the United Nations Standard Minimum Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders.

#### **3.1 The United Nations Standard Minimum Rules for the Treatment of Prisoners 2015 (The Nelson Mandela Rules)<sup>34</sup>**

It is an instrument adopted by the United Nations General Assembly Resolution in 2015. It is noteworthy, that the Rules were introduced in 1955, and reviewed in 1977 and 2015. During the last review, the Rules were dubbed ‘The Mandela Rules’ to honour the heirloom of late President of South Africa, Mr. Nelson Rolihlahla Mandela, who spent 27 years in prison in the course of his struggle for global human rights, equality, democracy and promotion of a culture of peace.<sup>35</sup> Even though not legally binding, the Nelson Mandela Rules provides guiding principles for national law for people held in prisons and other forms of detention.<sup>36</sup> The convention also encourages member states to accord humane treatment to their prisoners, and states that “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The

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<sup>32</sup>ibid.

<sup>33</sup> See United Nations General Assembly, *supra* note 30, Rules 24, 25, 19 & 22 of the Bangkok Rules.

<sup>34</sup> Adopted by United Nation General Assembly Resolution 70/175 U.N.GAOR, 70th Session, 80th meetings, U.N.Doc, A/RES/70/175 (2015).

<sup>35</sup> Alaba, *supra* note 22, pp.15-16; Nelson Mandela, *No Easy Walk to Freedom* (Heinemann 1973) p. 7.

<sup>36</sup> Andrew Coyle, *A Human Rights Approach to Prison Management Handbook for Prison Staff* (2nd edn, International Centre for Prison Studies 2009) p. 3



safety and security of prisoners, staff, service providers and visitors shall be ensured at all times”.<sup>37</sup>

According to the Nelson Mandela Rules, the living conditions are one of the major factors which determine a prisoner’s state of mind, self-esteem and dignity.<sup>38</sup> The conditions of how and where an individual eats, sleeps and uses the toilet have a huge effect on mental and physical well-being of that individual. The same applies to inmates, most especially because they do have limited choices as a result of their confinement. The poor conditions of the prison do not only violate the rights to dignity, but also amounts to cruel, inhuman or degrading treatment. The Nelson Mandela Rules provides detail guidelines on the standards of accommodation (Rules 12 to 17), hygiene (Rule 18) and nutrition (Rule 20). Rule 13 specifically states that: “All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation”.<sup>39</sup>

Rules 24-35 of the Nelson Mandela Rules provides for adequate health-care services for prisoners. Rule 28 of the Nelson Mandela Rules expressly provides that: “In women’s prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate”.<sup>40</sup> Rules 93 and 94 of the Nelson Mandela Rules provides for classification and individualization of prisoners.<sup>41</sup> Rule 93 specifically provides that the purposes of classification shall be to divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.<sup>42</sup>

### **3.2 The United Nations Standard Minimum Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders 2010 (The Bangkok Rules)**<sup>43</sup>

It was adopted by the General Assembly Resolution on 21 December 2010. Driven by the significant increase of female detainees worldwide, the Bangkok Rules set out comprehensive guidelines and standards for the treatment of female prisoners. The instrument recognises women as a vulnerable group within the criminal justice system and aims to address the various problems affecting them.<sup>44</sup> State parties were called on to respond by taking appropriate steps to promote and respect the right of women prisoners and to consider incorporating these rules into their national laws. It is important to mention that this Bangkok Rules did not replace the Standard Minimum Rules for the Treatment of Prisoners

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<sup>37</sup> The Nelson Mandela Rules, Rule 1.

<sup>38</sup> *ibid*, Rule 18 (1) & (2).

<sup>39</sup> *ibid*, Rule 13.

<sup>40</sup> *ibid*, Rule 28.

<sup>41</sup> *ibid*, Rules 93 and 94 of the Nelson Mandela Rules.

<sup>42</sup> *ibid*, Rules 93(1)(b).

<sup>43</sup> The Bangkok Rules, *supra* note 30.

<sup>44</sup> Uju A, A Critical Analysis of the Current Situation of Female Offenders in African Countries’ (2015) p.56 <[https://unafei.or.jp/publications/pdf/13th\\_Congress/14\\_PRAWA.pdf](https://unafei.or.jp/publications/pdf/13th_Congress/14_PRAWA.pdf)> accessed 10 August 2025.



but came to complement and supplement the provisions contained in the rules and shed more light on the treatment of women prisoners.<sup>45</sup>

Rule 1 of the Bangkok Rules which supplements Rules 1 and 2 of the Nelson Mandela Rules emphasises the need for the practice of the principle of non-discrimination through adequate consideration for the distinctive needs of women prisoners and their children.<sup>46</sup> Rule 5 of the Bangkok Rules, which supplements Rules 12 to 18 of the Nelson Mandela Rules, provides for humane approach to personal hygiene of women in prison and states that: “The accommodation of women prisoners shall have facilities and materials required to meet women’s specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, and in particular, women involved in cooking and those who are pregnant, breastfeeding or menstruating”.<sup>47</sup>

Rules 6-17 of the Bangkok Rules, which supplementing rules 24 to 35 of the Nelson Mandela Rules, provides for humane provision of health care services, mental health care and substance abuse treatment programmes for women in prison.<sup>48</sup> Rules 40-41 of the Bangkok Rules, which supplements rules 93 and 94 of the Nelson Mandela Rules, provides for classification and individualization. For example, Rule 40 expressly provides that: “Prison administrators shall develop and implement classification methods addressing the gender-specific needs and circumstances of women prisoners to ensure appropriate and individualized planning and implementation towards those prisoners’ early rehabilitation, treatment and reintegration into society”.<sup>49</sup> Rule 48 of the Bangkok Rules provides for humane treatment of pregnant women, breastfeeding mothers and mothers with children in prison.<sup>50</sup> Rule 22 of the Bangkok Rules provides that imprisonment of women should only be considered in extreme cases, that is, as last option, and their children should be put into consideration.<sup>51</sup> It is an attempt of intensification of efforts to eliminate all forms of violence against women. The instrument makes provision for alternative measure rather than imprisonment for women.<sup>52</sup>

#### 4. VULNERABILITY OF FEMALE INMATES

This section explores the specific requirements for upholding the dignity of female inmates as a vulnerable group within Nigerian correctional facilities. It is important to note that vulnerability in this context extends beyond sex or gender, which often serves as aggravating factors rather than the sole determinants.<sup>53</sup> Certain factors are directly attributable to the vulnerability of females within correctional institutions. These factors include the minority population of female inmates, the childbearing and caregiving role of female inmates, the

<sup>45</sup> Alaba, supra note 22, p.15; The Bangkok Rules, Preliminary Observations, paragraphs 2 & 3.

<sup>46</sup> Uju, supra note 44, p. 56; The Bangkok Rules, Rule 1.

<sup>47</sup> The Bangkok Rules, Rule 5.

<sup>48</sup> *ibid*, Rules 6-17.

<sup>49</sup> *ibid*, Rule 40. See also, Rule 41.

<sup>50</sup> *ibid*, Rule 48.

<sup>51</sup> *Ibid*, Rule 22.

<sup>52</sup> *Ibid*, Rule 57.

<sup>53</sup> Cunico, S.D. and Lermen, H.S. ‘Prison from a gender perspective: A Systematic Review’ [2020] (10)(1) *Psicologia Conocimiento y Sociedad Revisiomes*, 205-239.



vulnerability of female inmates to sexual abuse, the peculiar experience of female inmates living with disabilities and the varied age-related needs of female inmates.

#### 4.1 Minority Population

Female inmates in Nigerian correctional facilities are in the minority, representing a figure as low as 2% of the population.<sup>54</sup> By implication, the structure, facilities, and administration of prisons are primarily designed to accommodate the needs of the majority male population. As a result, minority groups face greater challenges in serving their sentences. Correctional facilities are typically structured to meet the needs of male inmates, who constitute the majority of the prison population, leading prison systems to be organized around the requirements of this dominant group.<sup>55</sup> This minority status is evident in the architectural design of the facilities, security, feeding and nutritional design and provisions, medical and health care, mental health care, psychological therapy and counseling, rehabilitative programs, recreation, and all other programs and activities geared towards the correction of inmates. The needs of female prisoners are often introduced as an afterthought, merely appended to the existing provisions designed for male inmates. This results in indiscriminatory disparities in the resources available to women in correctional facilities. Given the increasing number of incarcerated women, regardless of their ratio to the total prison population, there is a pressing need for tailored and specific standards to govern their treatment.<sup>56</sup>

#### 4.2 Child Bearing and Caregiving Role

Women's childbearing and caregiving role makes them vulnerable within the correctional setting. This role draws special attention to a woman who is pregnant or cares for her child within a correctional institution. The physiological makeup of women imposes unique burdens, including the monthly menstrual cycle with its sanitary and psychological needs, pregnancy, and associated health issues. Women also face the responsibility of breastfeeding, which requires them to care for their baby directly using their bodily resources for an extended period. For this reason, female inmates are allowed to nurse their babies for up to 18 months before such babies are taken out of the facility.<sup>57</sup> This childbearing and caregiving responsibility on women has associated special facility requirements to ensure the safety of the inmate and her baby.<sup>58</sup>

The only instance where a child can be kept in adult facilities is where the child is born in custody, and this is usually in the best interest of the child.<sup>59</sup> A pregnant inmate shall, as much as possible, be made to deliver her child outside the facility to remove the stigma of being born in custody from such a child. Correctional officials in Kirikiri Female Custodial Center, Lagos State, confirm that the facility is well equipped to take care of the needs of female inmates in this regard. However, the facilities within the Agodi Custodial Center, Oyo State, are not as well equipped. This, according to the Welfare Officer, cannot be compared

<sup>54</sup> Statistics Summary. Summary of Inmate Population by Convict and Awaiting Trial Persons as at 24<sup>th</sup> March, 2025 <[https://www.corrections.gov.ng/statistics\\_summary](https://www.corrections.gov.ng/statistics_summary)> accessed 25 July 2025.

<sup>55</sup> Thanni, *supra* note 10.

<sup>56</sup> *ibid.*

<sup>57</sup> NCSA 2019, s 34(6).

<sup>58</sup> *ibid.*, s 34(2) & (3).

<sup>59</sup> Nelson Mandela Rules 2015, Preliminary Observation, paragraph 4.



with Kirikiri which is an exclusive facility. Only a small section of the Agodi facility is occupied by the females, and facilities such as the clinic are shared with the male inmates. There are very limited opportunities for recreation.<sup>60</sup>

### 4.3 Sexual Molestation and the Sexuality of the Female Inmate

Female inmates are vulnerable because of their proneness to sexual molestation and abuse. When acts of sexual molestation against females become a culture, it is used as a tool of oppression by males, especially when they possess one form of authority or the other.<sup>61</sup> Generally, the Nigeria Correctional Service Standing Orders Custodial (Revised Edition) 2020, in line with the NCSA, 2019 provides for the care of female inmates.<sup>62</sup> It, however, omitted cases of sexual abuse, which may be treated as acts against prison discipline or criminal acts, depending on how severe the Superintendent considers it.<sup>63</sup> The intentment of the law for the provision of separate female correctional facilities as expressly provided in section 34(1) of the NCSA 2019 is to significantly reduce unlawful contact between males and females within correctional facilities. As such, more stringent rules are required where the female wing is inside a male-dominated facility, which is the case with most correctional facilities in Nigeria. In cases of unlawful contact with female inmates that do not result in pregnancy, standard disciplinary procedures for correctional centers shall be enforced.<sup>64</sup>

Generally, interactions between male and female inmates within custodial facilities are restricted and must occur in the presence of a female officer.<sup>65</sup> As soon as a female inmate is admitted into custody, a pregnancy test shall be conducted.<sup>66</sup> This is to ascertain that conception does not take place during incarceration. A pregnancy that occurs after an inmate is already in custody shall be properly investigated, including DNA analysis.<sup>67</sup> What the Act and the Standing Orders failed to provide for are instances of sexual assault and molestation that do not result to pregnancy, as well as instances of same sex sexual molestation.

Absence of considerations for the sexuality of females, irrespective of incarceration, is a factor that can make her more vulnerable. It is important to consider not only instances where a female inmate is abused, but also where she is the abuser. There is no evidence that incarceration takes away the sexuality of individuals, including females. In the absence of approved means of satisfying sexual needs, female inmates may end up harassing weaker females or even males. It is equally unclear whether sex toys find their way into Nigerian correctional facilities. The Nigerian correctional space needs to consider making provisions for conjugal visits, given its advantages in stabilizing inmates and sustaining family relationships.<sup>68</sup> Studies have shown that conjugal visits can help reduce issues such as sexual

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<sup>60</sup>Data generated from Key Informant Interview conducted on Welfare Officers of Agodi Correctional Facility, Oyo State of Nigeria, on 17<sup>th</sup> August, 2023.

<sup>61</sup> Chowdhury, M.A. and others, 'A Sociological Study on Rape, Rapist and the Victim of Rape in Bangladesh' [2020] (5)(2) *Journal of Social Sciences and Humanities Review (JSSHR)*, 59-74).

<sup>62</sup> See NCSA 2019, Orders 562-573.

<sup>63</sup> *ibid*, Orders 443 & 444.

<sup>64</sup> *ibid*, Order 589 (e) *ibid*

<sup>65</sup> *ibid*, Order 564.

<sup>66</sup> *ibid*

<sup>67</sup> NCSA 2019, s 34(5).

<sup>68</sup> Thanni, *supra* note 10.



assaults, and physical violence in prisons,<sup>69</sup> making prison administration and management easier.

These conjugal visits can serve as incentives for good behavior and contribute to the rehabilitation of inmates. While there are a series of arguments for and against conjugal visits, evidence is yet to show what harm its practice will occasion other than the associated cost of implementation. Sex is a physiological need, and its denial on the basis of imprisonment infringes on the human rights of prisoners. Another consideration for conjugal visits is to the end that the family members, especially spouses of inmates are not unjustly punished for the crime of their partners.<sup>70</sup> The mental health challenges faced by female inmates due to their absence from their families, especially their spouses and children are undeniable.<sup>71</sup>

#### **4.4 The Double Vulnerable Status of Disabled Female Inmates**

While incarceration is hard enough for anyone, it is usually worse for persons with disabilities. It certainly will be more traumatic for female inmates to be persons living with one form of disability or the other. The condition of imprisonment accelerates the status of disability and the person with disability becomes more vulnerable than the average inmate belonging to any of the earlier identified groups.<sup>72</sup> Forms of disabilities which can be effectively managed within free society become a greater challenge under incarceration. This is because inmates are generally subjected to the routine and regimen essential to the function of correctional institutions, as total institutions. Certain disabilities can be properly managed outside correctional institutions because they are minor or non-grave. With proper management, persons having those disabilities may not be inhibited in any way, and the otherwise adverse effects may be totally unfelt. However, this same condition may become a significant issue within correctional institutions and the well-being of persons with disabilities may become threatened.

Women have special age-related biological and physiological needs. Coping with these needs is challenging enough, and becomes more demanding for female inmates living with disabilities.<sup>73</sup> The generally inaccessible structure of most facilities, and limited access to specialised medical care and medication, coupled with inadequate staff training, combine to make the lives of female inmates living with disabilities particularly difficult. A female welfare officer in Agodi Correctional Facility, Oyo State, Nigeria, gave report of a female inmate living with a mental disability that, amongst other things, she did not know she was menstruating at a particular time. The officer in charge of her cell did not understand 'why she was untidy.' This officer had just taken over from the officer who had received her into her cell upon admission into the yard. Although there was proper documentation of her

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<sup>69</sup>Kajawo, S. 'Conjugal Visits in Prison Discourse: Is it even an offender rehabilitation option in Africa?' [2021] (8)(1) *Advanced Journal of Social Science*, 67-76.

<sup>70</sup>ibid

<sup>71</sup> Cabeldue, M. and others, 'Mental Health Among Incarcerated Women: An Examination of Factors Impacting Depression and PTSD Symptomology' [2025] (29)(1) *Women & Criminal Justice*, 1-21.

<sup>72</sup> United Nations Office on Drugs and Crime, *Handbook on Prisoners with Special Needs* (Criminal Justice Handbook Series, United Nations 2008).

<sup>73</sup> Kumar, P. and others 'Challenges of Prison Inmates with Disabilities: Need for Comprehensive Data and Prison Support System for Access to Justice' [2024] (4)(2) *TJDSR- Journal*.



mental health status, she was not on her period throughout the duty of the previous officer, and she did not experience traumatic fits, making her mental state unmanifest to the new officer.<sup>74</sup> The needs of female inmates are unique to them and can become complicated with disability, as in the case of a woman whose physiological needs intersect with her mental disability.

#### **4.5 Age-Related Needs of Female Inmates**

The needs of women vary according to the age bracket into which they belong. For the purpose of this study, women are categorised into young, middle-aged and aging women.

##### **4.5.1 Young Female Offenders**

With the amendment of the Prison Act, Nigeria legalised the exclusion of young persons from adult correctional facilities. Whether they are kept in the regular custodial facility or not, young female offenders are vulnerable because of their sex, and require special protection. Young female offenders should be protected against physical, emotional and sexual abuse to which they are prone. Developmental features such as the onset of menstruation and other physiological developments of the body in preparation for childbearing and rearing roles should be considered when young females are being incarcerated. Their proneness to sexual abuse is a factor that should be considered, and adequate care be taken for the possibility of the young female becoming a mother.<sup>75</sup> At this stage, attention should be given to her education and skill acquisition, the primary concern being her possible reintegration into society as a properly reformed citizen. The role of females as nation builders should be at the fore of correcting of young female offenders, not losing sight of their gender roles within the family. The young female offender requires adequate family ties, counselling, religious and chaplaincy services and such other efforts to guarantee effective reintegration. Research has shown that with the application of the proper correctional tools, young people are more likely to outgrow criminality and turn out to be upright citizens who contribute to national development.<sup>76</sup>

##### **4.5.2 Middle-Aged Female Inmates**

Although the exact ages of female inmates in Nigeria are unknown at the time of this study, figures from other jurisdictions show that middle-aged women, between 20 and 45 are in the majority.<sup>77</sup> This is a very productive age bracket with its unique need for sanitary, psychological, financial and mental health care. Women in this bracket are usually caregivers, caring for their immediate families, spouse, children and parents, and are sometimes at the cusp of their grandparenting role. In families where they are the breadwinners, their incarceration has serious implications for their dependents. Their incarceration has similarly grave implications for their mental health in addition to the sanitary and nutritional needs arising within correctional facilities. Middle-aged female

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<sup>74</sup> Data generated from Key Informant Interview, *supra* note 60.

<sup>75</sup> Saadati, S and Saadati, N. 'Youth Offenders and Rehabilitation: Insights from Legal Practitioners and Social Workers' [2023] (2)(1) *Interdisciplinary Studies in Society, Law, and Politics*, 31-38.

<sup>76</sup> *ibid.*

<sup>77</sup> Budd, K. 'Incarcerated Women and Girls' (2024) <<https://www.sentencingproject.org>> accessed 24 March 2025.



inmates also have unique needs when they enter into the pre-menopausal stage of their development, become pregnant or are responsible for the care and nurture of an infant<sup>78</sup>.

#### 4.5.3 Aging Female Inmates

Undoubtedly, aging female inmates face distinct challenges that significantly affect their physical, mental, and social well-being. Generally, older incarcerated women experience a higher incidence of chronic illnesses such as hypertension, diabetes, arthritis, mobility challenges, pre- and post-menopausal symptoms, yet many correctional facilities, including Nigerian facilities, lack adequate medical care tailored to their needs.<sup>79</sup> This category of female inmates is also prone to mental health disorders, including depression and anxiety, exacerbated by prolonged isolation and the stresses of confinement and separation from family.<sup>80</sup> As a result of prolonged separation from family, older female inmates encounter social and rehabilitation challenges. Many elderly incarcerated women have weakened family ties, often due to long sentences that have distanced them from their children and loved ones. This isolation fosters emotional distress and social disconnection, making reintegration into society even more difficult.<sup>81</sup> Furthermore, age-related cognitive decline presents obstacles in accessing educational and vocational programmes, which are typically designed for younger inmates. The combination of insufficient healthcare, emotional isolation and limited reintegration support underscores the need for gender and age-responsive prison policies, including improved medical services, mental health support, and structured re-entry programmes to better assist aging female prisoners.

### 5. FEMALE INMATES IN OTHER JURISDICTIONS: ZIMBABWE AND UNITED KINGDOM IN FOCUS

This section examines the management and treatment of female inmates in Zimbabwe and United Kingdom aimed at protecting their (female) rights to human dignity. The section offers opportunity for Nigeria to glean, if any, useful lessons from both jurisdictions regarding the management and treatment of incarcerated women intended to protect their rights, especially, their right to dignity of the human person.

#### 5.1 Management and Treatment of Female Inmates in Zimbabwe

The colonial rule in Zimbabwe operated with mass incarceration of its citizens, but prison reforms started in earnest with its abolition. As soon as colonial rule ended, as much as 17,000 prisoners were released through a presidential amnesty. A series of prison reforms have followed since 1980 till date. Initially, prisons in Zimbabwe operated under The Convict Stations and Prisons Management Act of 1888, with the introduction of the Prison Act 7:11 in 1995, came a restructuring of the prison system. A commissioner was appointed under the Act to lead the Zimbabwe Prison Service under the Ministry of Justice, Legal, and

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<sup>78</sup>Data generated from Key Informant Interview, supra note 60.

<sup>79</sup>Williams, B.A. and others, 'Addressing the Aging Crisis in U.S. Prisons'[2012] (60)(6) *Journal of the American Geriatrics Society*, 1150-1156.

<sup>80</sup>Maschi, T., Viola, D. and Morgen, K. 'Trauma, Stress, and Coping Among Older Adults in Prison: Toward a Human Rights-Based Perspective'[2013] (54)(3) *The Gerontologist*, 428-433.

<sup>81</sup>Aday R.H., *Aging Prisoners: Crisis in American Corrections*(Praeger Publishers 2019).



Parliamentary Affairs.<sup>82</sup> This removed the Prison Service from the control of the Zimbabwean police and magistrates. The Prison Act has since undergone amendments, which further reshaped the treatment of offenders in the country. In 1980, the Rhodesia Prison Service was renamed the Zimbabwe Prison Service, and in 2013, it became the Zimbabwe Prisons and Correctional Service to reflect its rehabilitation-focused approach, just as it happened in Nigeria with the change of the Nigerian Prison Service to the Nigerian Correctional Service in 2019 for similar purposes.

The Zimbabwe Prison and Correctional Service have since implemented various reforms, including the establishment of a rehabilitation section, prison-run farms, and community service programmes.<sup>83</sup> Efforts toward humane treatment have also been made, such as the abolition of corporal punishment in 2013 and the elimination of other inhumane practices. Furthermore, Zimbabwe is on the verge of abolishing the death penalty, and replacing it with long-term prison sentences for serious crimes only.<sup>84</sup>

Despite these reforms, female inmates remain marginalized in Zimbabwe's correctional institutions just as the experience is in Nigeria. Zimbabwean prisons are generally designed with the male population in mind, and of the country's 44 prisons, only four are exclusively for women: Chikurubi Female, Shurugwi, Mlondolozhi, and Marondera Open Prison.<sup>85</sup> The sanitary needs of women, especially for menstruation, are poorly catered for because most prisons were constructed and administered with the male population in mind.<sup>86</sup> The Mlondolozhi facility primarily accommodates male and female prisoners with mental health conditions, while the Chikurubi female facility includes a psychiatric ward. The infrastructure of Zimbabwean correctional facilities is generally male-centric, with 18 prisons designated solely for men, while 26 men's prisons allocate limited spaces for women within them. This imbalance suggests that women in the Zimbabwean criminal justice system are an afterthought, highlighting the need for further research and policy interventions.<sup>87</sup>

While both male and female offenders experience the negative impacts of imprisonment, women are disproportionately affected due to their vulnerability and primary caregiving roles. This places a greater burden on their families and makes it even more challenging for them to care for their children, leaving them at a greater disadvantage when compared to male inmates. Inadequate legal representation, borne out of limited or outright lack of education, is an additional factor contributing to the vulnerability of female inmates in Zimbabwe. Limited access to formal education and legal knowledge prevents many women in Zimbabwe from understanding their rights while in detention.<sup>88</sup>

Although, this study agrees that limited access to education deprives persons of knowledge about their legal rights, it has not been established how this significantly affects

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<sup>82</sup> Chinhanu C.A., *Kupenga Mujeri' (Prison Chaos): The Experiences of Incarcerated Women in Zimbabwean Prisons* (PhD Thesis, University of Leeds 2024).

<sup>83</sup> *ibid.*

<sup>84</sup> *ibid.*

<sup>85</sup> *ibid.*

<sup>86</sup> Makarati, J. 'Breaking the silence on menstruation in Zimbabwe: Where does the female prisoner stand?' (2023) <<https://searcwl.ac.zw/uploads/Menstruationprison>> accessed 3 April 2025.

<sup>87</sup> *ibid.*

<sup>88</sup> *ibid.*



females more than their male counterparts, except when other intervening circumstances are considered. Such intervening circumstances could be the systemic gender bias within the judiciary, police, correctional system, and probate offices, which could intersect to further undermine the right of female inmates to fair treatment.<sup>89</sup> In some instances, women are forced to trade sex for access to basic human rights requirements within the prison facilities.<sup>90</sup> In Zimbabwe, prisoners with mental health issues face significant human rights violations due to inadequate institutional support. The Zimbabwe Prisons and Correctional Service lacks sufficient staff, medication, and facilities to address mental health concerns among female inmates. At Chikurubi Female Prison, a single psychologist serves all prisoners, including those sentenced and those on remand, visiting only once a month. Social workers are also scarce.<sup>91</sup> Poor staffing and the lack of professionals who are trained to attend to the peculiar needs of females in prisons increase their vulnerabilities.

## 5.2 Management and Treatment of Female Inmates in the United Kingdom

Available literature shows an empirical, well-detailed, systematic and standard treatment of female inmates across the United Kingdom. Prior to its adoption of the United Nations Standard Minimum Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (The Bangkok Rules), standards practices were already in place across the United Kingdom, though, of course, further compliance is required to meet its own human rights targets.<sup>92</sup> While African countries such as Nigeria and Zimbabwe grapple with meeting core needs of their female inmates, UK is more concerned about effectively managing mental health issues, preventing occasions of self-harm, reducing unnecessary imprisonment of women, tackling recidivism and generally complying with international standards, such as those laid down in the Bangkok Rules and the Nelson Mandela Rules. In its first report of working with over 4000 female inmates, Women in Prison reported a relatively strong level of compliance with these international standards, though significant improvements are still needed in certain areas to fully meet these standards and uphold the dignity of women in custody.<sup>93</sup>

The management of prisons in the United Kingdom is governed primarily by the Prison Act 1952 and the Prison Rules 1999, which together provide the statutory and regulatory framework for the administration of prisons in England and Wales. These provisions are supplemented by policy instructions issued by His Majesty's Prison and Probation Service (HMPPS), and are subject to the overarching requirements of the Human Rights Act 1998, which incorporates the European Convention on Human Rights (ECHR) into domestic law. Under this framework, the use of restraints on prisoners is permitted only where strictly necessary and proportionate to prevent escape, injury, or serious disorder, and is subject to close scrutiny under Article 3 ECHR, which prohibits inhuman or degrading treatment.

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<sup>89</sup> *ibid*

<sup>90</sup> Mhlanga-Gunda R. and others, 'Prison Conditions and Standards of Health Care for Women and their Children Incarcerated in Zimbabwean Prisons' [2020] (16)(3) *International Journal of Prisoner Health*, 319-336.

<sup>91</sup> *ibid*.

<sup>92</sup> Gullberg, S., 'State of the Estate: Women in Prison's Report on the Women's Custodial Estate 2011-12, Women in Prison 2013 <<https://womeninprison.org.uk/media/downloads/SOTE-2nd-Edition.pdf>> accessed April 2025.

<sup>93</sup> *ibid*.



Rule 33 of the Prison Rules 1999 specifically provides for the needs of pregnant women, requiring adequate antenatal and postnatal care, including the possibility of mothers caring for their infants in prison. Complementary HMPPS policy prohibits the use of restraints on women during labour, childbirth, and immediately thereafter, unless there is a demonstrable, exceptional risk that cannot be managed otherwise. These rules reflect a recognition of women's heightened vulnerability during reproductive processes and the State's obligation to preserve dignity, health, and humane treatment.

UK courts have repeatedly stressed the unlawfulness of excessive or routine use of restraints, especially in cases involving women and vulnerable prisoners. A key decision is *R (P) v Secretary of State for Justice*,<sup>94</sup> where the court established a binding standard for custodial practice on restraints on pregnant prisoners, where the Court of Appeal held that handcuffing a pregnant prisoner during labour and immediately after childbirth constituted inhuman and degrading treatment, contrary to Article 3 European Convention on Human Rights (ECHR). The judgment established that restraints during such vulnerable circumstances are rarely justifiable and that prison authorities must operate within the principles of necessity and proportionality. The Court stressed that restraint must never be applied as a matter of administrative convenience, but only where strictly necessary, following an individualised risk assessment. This position was strengthened in *Keenan v United Kingdom*,<sup>95</sup> where the Court emphasised the increased duty of care owed to vulnerable prisoners, including those with health needs, a principle directly applicable to pregnant women and new mothers.

The UK framework therefore insists on a near-absolute ban on restraints during pregnancy and childbirth, requires gender-specific healthcare provision, and subjects any departure from this standard to rigorous justification. In practice, this aligns domestic law with international standards such as the Bangkok Rules and the Mandela Rules.

Unlike in previous years, there has been a gradual increase in the number of female inmates across the UK. Women now account for about 5% of the total population, a figure that is more than the percentage increase in the number of male inmates.<sup>96</sup> A significant figure of this represents remand inmates, a situation equally true in Nigeria and other jurisdictions.<sup>97</sup> It is impressive that the Legal Aid, Sentencing and Punishment of Offenders Act, 2012 (LASPO) includes a presumption against remand in cases where a custodial sentence is unlikely upon conviction. This act has significantly reshaped sentencing and remand particularly for women. It seeks to curb unnecessary bail conditions and pre-trial detention,<sup>98</sup> but rather encourages community-based alternatives<sup>99</sup> with particular relevance for female offenders, many of whom are mothers or primary carers. The Act's promotion of community sentences<sup>100</sup> aligns with judicial recognition that imprisonment of mothers should

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<sup>94</sup> (2009) EWCA Civ 701.

<sup>95</sup> (2001) 33 EHRR 38

<sup>96</sup> United Nations Office on Drugs and Crime, Handbook on Strategies to Reduce Overcrowding in Prisons (Criminal Justice Handbook Series, United Nations 2013).

<sup>97</sup> *ibid.*

<sup>98</sup> Gullberg, *supra* note 92.

<sup>99</sup> Legal Aid, Sentencing and Punishment of Offenders Act, 2012, Pt 3, ss. 142-147.

<sup>100</sup> *ibid.*



be a last resort. In *R v Petherick*,<sup>101</sup> the Court of Appeal stressed the need to account for the severe impact of maternal imprisonment on children.

A similar step has been taken in Nigeria, where the NCSA, 2019 recommends non-custodial alternatives for simple offences. While some positive initiatives are underway, much more must be done to establish a prison system that is truly gender-responsive and capable of ensuring the safety and dignity of the limited number of women who must be incarcerated. The UK presents a model that can be followed by Nigeria, Zimbabwe and indeed other African countries, in the treatment of their female inmates.

## 6. CONCLUSION

All individuals, whether incarcerated or not, are entitled to respect for the dignity of their human person and must not be subjected to discrimination on any grounds—including their legal status as prisoners. While this right is strongly affirmed in numerous international human rights instruments, it is important to recognize that the manner in which human dignity is upheld may differ from individual to individual. This is because each person's unique circumstances and specific needs require tailored approaches to ensure their dignity is meaningfully respected. While all inmates retain their right to the observance of the dignity of their person, the needs of female inmates for dignity are gender-specific. Generally, female inmates are prone to being subjected to different forms of violations, ranging from physical to mental abuse, as well as deprivation of essential material requirements and services. It is for this reason that females are categorized as vulnerables within correctional facilities.<sup>102</sup>

Female offenders in correctional institutions across Nigeria face numerous obstacles that hinder their rehabilitation and reintegration into society. The experience is quite similar to what obtains in Zimbabwe. Female inmates often endure gender-specific challenges, including inadequate healthcare, insufficient access to menstrual hygiene products, and heightened vulnerability to sexual abuse. Additionally, many facilities lack the resources to accommodate and properly care for pregnant and nursing mothers. The risk of reoffending among young offenders is also similarly heightened because of the application of inadequate correctional measures. Defective educational and skill acquisition programmes make the hope of rehabilitation and reintegration quite dim, making recidivism inevitable. Addressing these issues requires not just legislative amendments but active policy reforms, including gender-responsive prison programmes, improved healthcare, and dedicated juvenile correctional centers that focus on education, mental health support, and skill development.

Although, the NCSA, 2019 provides for significant improvement of the experience of female inmates in Nigeria, there still exists a significant gap between legislation and implementation. In other words, the progress of the laws relating to the rehabilitation of female offenders in Nigeria has been up to date with international best practices and standards. This is evident in provisions that recognise the need for separate facilities for female inmates with arrangements for nursing mothers and their babies. Thus, the problem of adequately caring for female inmates is not one of inadequate legislative provisions, but that of implementation. To ensure the humane treatment of female inmates in Nigeria, the authors recommend that:

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<sup>101</sup> (2012) EWCA Crim 2214.

<sup>102</sup> Thanni, *supra* note 10.



1. The Nigerian government, through the Nigerian Correctional Service, should give prompt attention to implementing the provisions of the NCSA, 2019.
2. Private groups such as Professional Associations, Non-Governmental Organisations and Religious Organisations should continue supporting female offenders as a means of complementing governmental efforts, which for now, are inadequate.