

THE LEGAL FRAMEWORK AGAINST JAILBREAKS IN NIGERIA*

Abstract

The subject of jailbreak episodes in Nigeria and relevant statute provisions under the Nigerian penal system were both examined in this article. It brought attention to the problems behind Nigeria's high rate of jailbreaks and their effects on the country's society. It demonstrated how the aforementioned problem persists in spite of current regulations regarding jailbreaks from Nigerian correctional facilities. The doctrinal technique was used in this investigation. Given that the study examined potential legal requirements that would reduce jailbreak instances in Nigeria, the doctrinal methodology was chosen. One of the study's claims is that prisoners flee holding or correctional facilities not only to avoid punishment for their crimes but also to avoid the facilities' deteriorating infrastructure. The study made it evident that there is lack of faith and confidence of Nigerians in the Nigerian Correctional Service due to the overwhelming incidents of jailbreaks. This study also noted that while officials are responsible for preventing jailbreaks or attempts at them under the Nigerian Correctional Service Act, 2019, the Act does not penalize jailbreaks in order to discourage their occurrence. To lessen the likelihood of jailbreaks, all of their causes must be addressed. According to this report, the Nigerian Correctional Service Act of 2019 should be amended to specifically make breaking into Nigerian prisons a crime.

Keywords: Jailbreak, Nigerian Correctional Service, Nigerian Correctional Centre, Public Faith, Legal Framework

1. Introduction

People that go contrary to criminal laws are required to undergo the due process of law which involves arrest of the suspect, investigation of the alleged offence, prosecution or fair trial, conviction or acquittal by the Court, and sentencing if convicted.¹ by the government authorities. This study upholds that the aforesaid is for two reasons. The first reason is that history has shown that leaving people alleged to have committed an offence in the hands of civilians lead to jungle justice, which has been frowned upon as being archaic and barbaric.² The other reason is based on the presumption of innocence. Referring back to the three arms of government, the legislators make the criminal laws alleged to have been broken by the suspect, the executive makes the arrest, investigation of the offence as well as the prosecution, while it is before the judiciary that the suspect is tried before, leading either to a conviction/sentencing or acquittal.³ In the case that an individual is convicted of an offence in Nigeria, traditional punitive methods often include the imposition of jail sentences, as evidenced by a review of numerous criminal laws.⁴ The reason for this sentence stems from the need to separate the perpetrator from the rest of society. The rationale is that providing such person full access to the community constitutes a substantial threat to public safety. As a result, the use of incarceration as a punitive tool is intended not merely to punish the offender, but also to protect the larger community by limiting the potential harm caused by their continuing presence in the societal cluster.⁵

Convicted offenders are confined to particular institutions known as correctional centers, sometimes known as prisons,⁶ in order to separate them from the rest of society (to ensure public safety). Personnel at these correctional facilities are in charge of ensuring that offenders live out the prescribed jail sentences.⁷ The personnel are commonly called the prison or correctional service authorities. The personnel are also responsible for the general well-being of the detainees while in custody. This all-encompassing job includes the provision of food, visitor hour's facilitation, general environmental cleanliness maintenance, and the establishment of appropriate living circumstances while upholding fundamental rights of inmates. However, study shows correctional facilities in Nigeria are commonly acknowledged as locations in which no one would deliberately choose to remain, regardless of the length of their term.⁸ The ideal is for the inmates to be kept within the correctional centers until the jail term elapses. However, this has not always been the case. This is because of the occasional jailbreaks that have occurred across Nigeria.⁹ On the 6th of July 2022 Nigeria experienced her 20th jailbreak in 7 years where the Kuje correctional centre

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¹ Adeyanju Oluwafunmilayo Folasade, 'Safeguarding the Legal Provisions of the Presumption of Innocence of Pre-trial Detainees' (2023) 3(1) *Journal of Jurisprudence & International Law* 62.

² Ignatius Nnaemeka Onwuatuogwu and Nkemjika Bernardine Nwagu, 'Jungle Justice: A Peak of Failure of Humanity' (2020) 1(1) *International Journal of Scientific Research in Easy and Case Studies* 12.

³ Uwadineke C Kalu, 'Separation of Powers in Nigeria: An Anatomy of Power Convergences and Divergences' (2018) 9(1) *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 116.

⁴ Udosen Jacob Idem and Nkokom Eyo Udofia, 'Sentencing and the Administration of Criminal Justice in Nigeria' (2018) 4(1) *Donnish Journal of Law and Conflict Resolution* 1.

⁵ Dada Ayoola Adekunle and Dosunmu Akinola George, 'Criminal Justice System: The Nigeria Scenario' (2015) 3(3) *International Journal of Social Science and Humanities Research* 437.

⁶ Chidubem Ezeilo and Princewell Akinseye-George, 'A Review of the Nigerian Correctional Service Act 2019' (2020) 4(1) *University of Lagos Law Review* 138.

⁷ Okofia Sandra Ogechukwu and AO Onyiaso, 'Occupational Health Hazards and Control Measures among Prison Wardens in Anambra State, Nigeria' (2023) 11(3) *International Journal of Innovative Social & Science Education Research* 85.

⁸ Ahmad Hassan Ahmad and Muktar M Koya, 'Corruption and Healthcare Delivery: Towards a Progressive Intervention in Nigerian Correctional Centres' (2020) 18(2) *The Nigerian Journal of Sociology and Anthropology* 103.

⁹ Temitope Francis Abiodun, Marcus Tamitayo Akinlade, A B Onyi *et al*, 'Recurrent Waves of Jailbreak in Nigeria: The Imperatives of Prison Intelligence and Dynamic Security Strategies in managing the Nigerian Correctional Facilities' (2021) 8(5) *Advances in Social Sciences Research Journal* 229.

was attacked and over 889 inmates escaped including members of the terrorist sect called Boko Haram.¹⁰ Jailbreak is not an issue peculiar to Nigeria alone. Nevertheless, the focus of this study is on jailbreaks that have occurred in the Nigerian correctional centers, as it is one of the issues affecting the Nigerian society. The dynamics of jailbreaks are determined by attempts to avoid incarceration and authority control. In this context, jailbreaks include detained people attempting to free themselves from the restraints imposed by correctional institutions.¹¹

One of the goals of this research is to investigate the root reasons of jailbreaks in Nigeria, as well as the persistence of this issue. Historically, conversations on this subject have only surfaced in the aftermath of individual tragedies, frequently dying away soon after. However, this study aims to go beyond the transitory nature of these talks by giving meaningful insights into the underlying reasons of jailbreaks and making strong suggestions for preventing them in the future.

2. Statement of the Problem

A prominent issue facing correctional centers in Nigeria is the poor living facilities, attributed to various factors such as overcrowding of the holding facilities, deterioration of the holding facilities, lack of funding to maintain the environment or misappropriation of available funds, inadequate security measures, and sometimes, dissatisfaction with the legal system.¹² In recent times, reasons for jailbreak have moved to escape the wrath of the law to escape from the harsh living conditions. In resolving the living conditions of people kept in custody were subjected to, the Nigeria Prison Act was repealed and replaced with the Nigerian Correctional Service Act, 2019 as a solution.¹³ However, the unconducive living conditions and the harsh treatment those in custody are being subjected to remains the same. This supports the claim that in Nigeria, if a measure has been created to resolve an issue, those meant to implement those measures simply fail to do so. Jailbreaks allow people who are meant to be kept away from the society to have access and camouflage as regular members of the society, which is made possible due to lack of proper profile of incarcerated people.¹⁴

3. The Concept of Jailbreaks

One feature that is innate in all human beings is the zeal and want for freedom and liberty. The restriction of personal liberty is glaringly obvious in the setting of confinement, such as in a correctional facility.¹⁵ While personal liberty is a fundamental right, it is not absolute. An exception to the treasured right to personal liberty occurs when an individual is legitimately detained, either as a result of an accused wrongdoing or by a valid court order. However, this does not stop incarcerated from attempting to break away from lawful custody. This act of attempting to and escaping from the detention facility is known as a jailbreak.¹⁶ A jailbreak is an intentional and daring act of attempting to break out from the constraints of a correctional facility. A jailbreak, in essence, embodies jailed persons' conscious and strategic efforts to free themselves from the exact facility that has them in custody. The term 'intentional' is essential to defining the concept of a jailbreak, emphasizing the deliberate character of the act because no escape occurs by chance. The intentional traits of a jailbreak may be shown in situations where a group of prisoners or inmates work together to organize and carry out the escape. This joint effort frequently requires painstaking preparations, with some inmates personally involved in the process of preparation and execution, while others that were not directly involved in the early phases, grabbing the opportunity to join the collective escape. There are two major locations where jailbreaks occur. They are the correctional centers as well as the holding facilities of security agencies such as the Police.

4. Theoretical Framework

Social Learning Theory

This theory was developed by a psychologist known as Albert Bandura in the field of psychology to explain how people pick up habits from an environment, or series of event, which are eventually exhibited at the long run especially within the circumstance where the person currently exhibiting the habit witnessed it.¹⁷ The position held in this theory is that the process of learning takes place within three scopes; observation, imitation, and modeling. In addition to this, the process of learning is influenced by factors in the likes of attention, motivation, attitudes, and emotions. This theory explains or seeks to illustration how the environment affects what people learn. According to this viewpoint, people learn habits by seeing the outcomes of others' acts. Albert Bandura's social learning theory has received a number of criticisms throughout time. Critics claim that social learning theory is deterministic in nature, meaning that behaviors are essentially mechanistically acquired through observation and reinforcement. This viewpoint may oversimplify the complexities of human behavior, which is influenced by a wide range of factors beyond simple observation and imitation. Another criticism is that the theory mostly ignores intrinsic

¹⁰ Olanrewaju Oyedeji, 'As Nigeria Experiences its 20th Jailbreak in 7years, Here are Four Issues of concern' (Dataphyte, 11 July 2022) <<https://www.dataphyte.com/latest-reports/development/as-nigeria-experiences-its-20th-jailbreak-in-7-years-here-are-four-issues-of-concern/>> accessed 7 February 2024.

¹¹ *ibid*

¹² Alaba Iboronke Kekere, 'Decongesting Nigerian Correctional Facilities: An Outline and Critique of the Efforts under the Administration of Criminal Justice Act 2015' (2020) 3(2) *Journal of Law and Judicial System* 45.

¹³ Halima Doma Kutigi, 'A Review of the Nigerian Correctional Service Act 2019 and its Relevance to Effective Criminal Justice Administration' (2019) 1(1) *International Journal of Comparative Law and Legal Philosophy* 35.

¹⁴ Benjamin Adeniran Aluko and James Okolie-Osemene, 'Jailbreak Recurrence as a New Security Threat in Nigeria' (2019) 9(2) *African Journal of Sustainable Development*.

¹⁵ JN Ugwu, 'Challenges of Human Rights in Nigeria under the Present Dispensation 1999-Till Date' (2013) 1(1) *Benue State University Journal of Private and Public Law* 190.

¹⁶ James Okolie Osemene, 'Jailbreak Recurrence as a New Threat in Nigeria' (2019) 9(2) *African Journal of Sustainable Development* 125.

¹⁷ Kendra Cherry, 'How Social Learning Theory works' (*verywellmind*, 14 October 2022) <<https://www.verywellmind.com/social-learning-theory-2795074>> accessed 18 June 2024.

variables and individual differences in behavior. While Bandura acknowledged cognitive processes such as attention and memory, his theory did not completely explain how innate qualities and predispositions influence behavior. In line with this study, this theory gives insights as to the reasons for the increment of jailbreaks in Nigeria. According to this viewpoint, people learn behaviors by observing others. In the context of jailbreaks, convicts may learn about successful jailbreaks through a variety of avenues, including media, social interactions, and personal connections. If jailbreaks are viewed as a viable technique of accomplishing a desired objective (escape from captivity), the likelihood of attempting them will always be high. Once inmates learn of successful jailbreaks, they will be more motivated to mimic or attempt them.

Rational Choice Theory

This theory was formulated by the economist, Adam Smith, in 1776.¹⁸ The theory opines that individuals would always make rational decisions in order to maximize prompt self-interest. According to this viewpoint, people use logical reasoning to weigh the costs and benefits of various options. The decision-making process entails weighing various options to determine which will provide the most satisfaction or gain. This pragmatic approach emphasizes a practical and reasoned approach to making decisions in daily life.¹⁹ Over time, this theory has acquired traction in the social sciences. Assertions are made to the extent that moral standards have a greater influence on human decision-making than merely rational considerations. In critical situations, such as selecting whether to donate blood to a severely ill family member, people may put moral imperatives ahead of self-interest. In such instances, the choice to donate may be motivated by a strong sense of moral obligation and responsibility, as opposed to any self-interest. Human decision-making is influenced by a complex interaction of elements such as societal norms and moral standards. These social forces shape people's decisions and behaviors, sometimes aligning with rational self-interest and sometimes emphasizing ethical considerations. According to rational choice theory, humans make decisions based on a rational calculation of advantages against the costs. When applied to the occurrence of jailbreaks, it can help to explain why convicts choose to attempt escapes. Prisoners analyze the prospective rewards and costs of escaping. If the anticipated benefits (for instance, freedom) outweigh the perceived costs (for instance, the chance of being apprehended or extra sanctions, inmates are more likely to try to break out. Prisoners learn from their own and others' experiences. If a jailbreak is successful, it creates a precedent and inspires others to attempt. Information about effective approaches and strategies might spread, boosting the likelihood of further attempts. Peer influence has a huge impact. If a group of inmates decides to escape, collective action can lower individual risks (shared resources, coordinated planning) while increasing the perceived likelihood of success. Criminal organizations or sympathizers can offer logistical and financial assistance, making escape more likely and minimizing perceived dangers.

5. Causes of Jailbreaks

The law of cause and effect, also known as causality, states that every action has a consequence. This universal concept extends its reach even to jailbreaks, since the occurrence of these events is tightly linked to particular and identifiable causes. When considering the nuances of jailbreaks, it becomes clear that these instances are not random; rather, they occur as a consequence of a convergence of circumstances and structural forces that conspire to drive individuals into the bold act of seeking imprisonment liberation. Thus, the phenomena of jailbreaks, like other aspects of life, has a reason, leading an investigation into all the factors that lead to the occurrence of such incidents within correctional facilities.

The Bid to Regain the Freedom of Personal Liberty

No individual desires that the right or freedom to do and act at will be deprived the person. In the event that such right or freedom has been deprived, attempts are made to secure such liberty.²⁰ Rather than breaking out of jail, one lawful way in which a person in confinement can regain the freedom to personal liberty is through bail application. For an alleged offender awaiting trial, administrative bail can be adopted where this does not scale through, the Courts can be approached.²¹ The path for seeking bail is only available to a select few that have the financial resources to hire legal representation or have people that can afford such services. Even for people that can afford legal representation, obtaining timely release can be a daunting task, owing to the excessive congestion within the courts where bail applications are heard.²² For individuals without the financial means to hire legal counsel, the only option appears to be the extreme step of attempting to break out from the constraints of correctional facilities. This harsh fact highlights the vast discrepancies in access to legal remedies, as well as the repercussions for persons caught up in the complex web of the criminal justice system.

The Bid to Escape the Wrath of the Law

Within the intricate fabric of society, the spectrum of incarceration encompasses not only those unlawfully imprisoned but also those who are legitimately jailed. Certain people in the society play the questionable role of society enemies, preferring to be a disruptive force. While intentionally spreading division and disruption, these individuals maintain an unshakeable drive to avoid accountability for their harmful acts. Their planned terror campaign frequently takes the shape of committing crimes against the society order, with incarceration as the assumed result for their transgressions-an accountability system in place to handle

¹⁸Akhilesh Ganti, 'Rational Choice Theory: What it is in Economics, with Examples' (*Investopedia*, 27 May 2023) <<https://www.investopedia.com/terms/r/rational-choice-theory.asp>> accessed 18 June 2024.

¹⁹ Michael I Ogu, 'Rational Choice Theory: Assumptions, Strengths, and Greatest Weaknesses in Application outside the Western Milieu Context' (2013) 1(3) *Arabian Journal of Business and Management Review* 90.

²⁰ Yinka Olomajobi, 'Right to Personal Liberty in Nigeria' (2022) 8 *Journal of Global Justice and Public Policy* 47.

²¹ David Tarh-Akong Eyongndi, 'The Administration of Criminal Justice Act, 2015 as a Harbinger for the Elimination of Unlawful Detention in Nigeria' (2021) 21 *African Human Rights Law Journal* 458.

²² Samantha Bielen, Ludo Peeters and Wim Marneffe, 'Backlogs and Litigation Rates: Testing Congestion Equilibrium across European Judiciaries' (2018) 53 *International Review of Law and Economics*.

the hostile activities. In the face of looming consequences, these individuals who have purposefully committed transgressions embark on a desperate journey to escape the clutches of incarceration.²³ Their behaviors demonstrate a steadfast refusal to accept the repercussions of their conduct, as they strive to avoid the accountability that society expects for their offenses. Thus, the act of breaking out of captivity becomes an unsettling expression of their willingness to avoid the consequences of their deliberate misbehavior. This delicate interplay between purposeful societal disruption, criminal activity, and subsequent attempts to avoid accountability highlights the criminal justice system's multifaceted issues.²⁴ It also sheds light on people who choose to be thorns in the flesh of society and attempt to evade the processes established to hold them accountable for their actions.

Poor Living Conditions

Advocating for better living circumstances in correctional facilities may appear paradoxical at first, especially when contemplating those thought to have committed horrible crimes. The predominant view is that the harsh atmosphere within these correctional facilities should act as an extra punishment for individuals charged or convicted of crimes. However, not all prisoners detained in correctional facilities have been formally convicted of the claimed charges; some may be awaiting trial or have yet to appear before a competent court of jurisdiction to defend their case. This essential distinction highlights the complexities of the issue, since condemning everyone, regardless of legal status, to severe living circumstances in correctional facilities would be intrinsically unfair. A fair and equitable approach to ongoing trials and the presumption of innocence until proven guilty requires that those awaiting legal resolution be provided with humane living circumstances that are consistent with justice standards. Therefore, it is and will not be fair to subject everyone to the harsh living conditions in correctional centers simply because people convicted of offence are held in custody there. The dreadful living circumstances at correctional facilities appear in a variety of disturbing ways, emphasizing the urgent need for significant reforms.²⁵ The concern is the lack of upkeep, since most, if not all, correctional institution structures are deteriorated. Toilets, restrooms, cell rooms, and kitchen utilities are in disrepair, worsening the already difficult conditions. Cell rooms, which are built to hold a set number of people, are really experiencing acute overcrowding, a stark reality that is brought to light by photographs and videos circulating on the internet.²⁶ Inmates are forced to negotiate small passageways and frequently sleep in uncomfortably close quarters, underscoring the harsh conditions they face.²⁷ The congested jail rooms add to a concerning scenario in which basic cleanliness becomes a luxury. Inmates who lack proper bathroom facilities resort to defecating and urinating inside the confines of their cell rooms, creating an atmosphere conducive to disease transmission within correctional facilities. This unclean environment not only jeopardizes the detained people's health and well-being, but it also violates their basic human dignity.²⁸

6. Strategies Adopted in Ensuring Successful Jailbreaks

Inmates do not just take to their heels to run away from correctional centers. This is because of the presence of officials, though not many, that are present to deter the escape attempt. There are strategies and steps that are taken to ensure a successful jailbreak.

Use of Riots in Correctional Centers

Riots and intentional chaos are a planned tactic used by convicts aiming to arrange jailbreaks within correctional facilities. This strategy entails inciting discontent, fomenting riots, and deliberately causing disorder within the boundaries of the penal facility. The goal is to use the subsequent disruption as a cover for escape or to overpower security systems. Inmates may start riots or deliberately cause turmoil to deflect the attention of security staff. The accompanying chaos and disorder overwhelm the guards, making it impossible for them to adequately respond to the planned disruption. This diversionary approach gives an opportunity for convicts to carry out their escape plans undetected.²⁹ The riots also cause slow responses from the prison personnel. The need to restore order and handle the immediate threat of violence within the prison may impede the timely implementation of measures to prevent escape. During the reaction delay, convicts take advantage of the opportunity to circumvent security measures. Inmates may target physical obstacles, surveillance systems, or entry points that become vulnerable during a riot. This strategic strategy enables them to detect and exploit security flaws hence the opportunity arises to pass information to the parties to the escape plan in order to execute a successful jail escape.³⁰

Jailbreak by Gang Members from Outside the Correctional Centers

In situations where a group of people engages in illegal activity, confronting law enforcement during the conduct of the felony might have a varied consequence. While some members may be captured on the spot by security agents, others may manage to elude capture. Those who successfully flee arrest may develop strategic plans to seek the release of their detained counterparts from law enforcement custody.

²³Eromo Egbejule, 'Jailbreak Epidemic Hits Nigeria's Overcrowded Prisons' (*Aljazeera*, 10 December 2021) <<https://www.aljazeera.com/news/2021/12/10/jailbreak-epidemic-hits-nigeria-overcrowded-prisons>> accessed 30 January 2024.

²⁴ *ibid*

²⁵ Torbjorn Skardhamar, 'Inmates' Social Background and Living Conditions' (2003) 4(1) *Journal of Scandinavian Studies in Criminology and Crime Prevention* 39.

²⁶Eromo Egbejule, 'Jailbreak Epidemic Hits Nigeria's Overcrowded Prisons' (*Aljazeera*, 10 December 2021) <<https://www.aljazeera.com/news/2021/12/10/jailbreak-epidemic-hits-nigeria-overcrowded-prisons>> accessed 30 January 2024.

²⁷ *ibid*

²⁸ Marcus Araromi, 'Prisoners' Rights Under the Nigerian Law: Legal Pathways to Progressive Realization and Protection' (2016) 6(1) *Journal of Sustainable Development of Law and Policy* 169.

²⁹ Ogadimma Chukwubueze Arisukwu and Adejumo Yinka Philip, 'Causes and Effects of Violence in Nigerian Prisons' (2015) 1(4) *Journal of Social Sciences and Humanities* 368.

³⁰ *ibid*

The jailbreak orchestrators often evaluate the security infrastructure's vulnerabilities, discovering flaws that may be exploited to enable the release of their companions. Coordinated activities may include external players acquiring intelligence about the correctional institution, its security measures, and the personnel's routines. The response of security forces, the integrity of correctional facility staff, and the effectiveness of the institution's security systems all play important roles in deciding the result of the jailbreak attempt. Successful escape frequently necessitates a planned combination of diversionary techniques, outside assistance, and a grasp of the legal and logistical problems involved in obtaining the release of imprisoned persons.³¹

Exploiting the Dilapidated Structures of the Correctional Centers

Incarcerated people use outdated correctional facility architecture to plan successful jailbreaks, identifying weaknesses inside failing prisons. This strategy comprises identifying vulnerable infrastructure, such as failing walls and ineffective security systems. Inmates skillfully exploit weak maintenance and monitoring, carefully choosing sites where structural flaws provide escape routes. The efficiency of this strategy is dependent on authorities' failure to address the deteriorating infrastructure of correctional facilities, which allows resourceful convicts to exploit compromised buildings for successful jailbreaks.³²

7. Case Studies on the Occurrence of Jailbreaks from Holding Facilities in Nigeria

Nigeria is no stranger to the occurrence of jailbreaks from the different correctional centers within the different States of the country. For instance, in 2015, there had been over 18 jailbreaks all over the country, which led to the escape of over 9000 inmates across the country.³³ To corroborate this, there is the need to give real life reported instances of jailbreaks across the country. There are 36 States in the Country. The different stories or occurrences of jailbreaks from correctional centers in the States will be given. In July 2022, a terrorist group known as the Islamic State Group (IS), a body in cahoots with the Boko Haram sect attacked Kuje Prison at Abuja (the Federal Capital Territory) which led to the escape of over 600 inmates.³⁴ Out of the estimate of over 600 inmates that escaped were 64 escapees who were apparently members of the Islamic State Group (IS) that were initially captured by security operatives. The terrorist group attacked with high standard issued military grade weapons and explosives and there were over 1000 inmates in the said prison when the incident occurred. A security officer, name undisclosed, that was on duty was killed in action, while three other security personnel were injured by the said terrorist group. This was regarded as the first successful large scale prison break or jailbreak to ever occur at Abuja, the capital of Nigeria.³⁵ On 19 October, 2020, a jailbreak attempt was made at the Oko Prison, West Amayo of Edo State at about 9 o'clock in the morning. However, the jailbreak was unsuccessful as it was repelled and no inmate escaped.³⁶ On 21 October, 2020, two days after the Oko Prison attack, hoodlums stormed the Benin Prison on the Benin-Sapele Road. A total of 1,993 convicts escaped from both sites. On 15 April, 2021, joint personnel from the Nigerian Security and Civil Defence Corps (NSCDC), Edo Command, and the Nigerian Correctional Service foiled a prisoner jailbreak attempt at a facility in Ubiaja, Esan South East LGA. On 29 October, 2021, a brawl broke out among convicts at the Benin Medium Security Prison on Sapele Road in Benin City, and some attempted to flee, but security officials intervened to restore order to the institution.³⁷ On 22 October, 2020, at least 58 convicts were liberated from the institution in Okitipupa, Ondo State, when thugs broke in. The terrorists destroyed prison property and wounded staff members on the site. On the same 22 October, 2020, correctional center officials and soldiers repelled an attempt to break into the Ikoyi correctional center. During the attack, several convicts were shot, while others that attempted to break through the prison gates were apprehended.³⁸ On October 22, 2021, the Abolongo Custodial Centre in Oyo State was assaulted, and 837 convicts fled, however the interior minister said that 262 had been caught. The government provided the data of the remaining 575 still on the run. It released photographs of prisoners who fled from the detention facility.³⁹

8. Legal Framework on Jailbreaks in Nigeria

In Nigeria, there are different laws that contain provisions against the escape or attempted escape (jailbreak) of prisoners/inmates from lawful custody.

Nigerian Correctional Service Act 2019

This Act is the primary legal instrument on individuals kept in lawful custody within prisons/holding facilities/correctional facilities. Section 20 (1) and (2) (a) (b) of the Act allows a correctional officer to use weapons against an inmate attempting to escape the correctional center. The said provision provides that when an inmate tries to or really does escape from lawful custody, a correctional officer may use firearms, tear gas, or other weapons as needed. Additionally, if an inmate is involved in a combination outbreak or effort to force or break open a custodial center's gate or perimeter wall, a correctional officer may use firearms on them and keep using them if the combined outbreak or attempt is still going on.⁴⁰ Section 29 (1) (e) of the Act provides that a person contravenes this law if such a person, either directly or indirectly, procures or attempts the procurement or persuasion of an inmate to desert; aids, abets, or is an accessory to an inmate's desertion, or harbors that person or aids in the

³¹ *ibid*

³² Christiana Nwaogu, 'Jailbreak Phobia: Ancient Blocks, Mud Walls Pave way for Attacks' (*Leadership*, January 2023) <<https://leadership.ng/jailbreak-phobia-ancient-blocks-mud-walls-pave-way-for-attacks>> accessed 30 January 2024.

³³ Amos Abba, 'Prison Break: Tracking 18 Incidents of Jailbreaks under President Buhari' (*International Centre for Investigative Reporting*, 23 July 2023) <<https://www.icirnigeria.org/prison-break-tracking-18-incidents-of-jailbreaks-under-president-buhari/>> accessed 31 January 2024.

³⁴ *ibid*

³⁵ *ibid*

³⁶ *ibid*

³⁷ *ibid*

³⁸ *ibid*

³⁹ *ibid*

⁴⁰ Nigerian Correctional Service Act, 2019.

concealment or rescue of the inmate in order to portray that the inmate is a deserting inmate.⁴¹ Section 29 (2) (b) of the Act provides ₦ 3,000,000 fine or three years imprisonment or both as the sanction for any person that commits the offence outlined in the said section 29 (1) (e) of the Act.⁴² The law recognizes that a correctional officer may be negligent in the duties or aid the escape of an inmate from custody. This is the reason that section 31 (1) of the Act provides that a correctional officer commits an offence when an inmate, who was in his lawful custody, escapes. In other words, the correctional officer would be deemed to have committed the offence if he was the officer on duty or in charge when the inmate escaped.⁴³ The above highlighted provisions of this Act show that the law places more obligation on correctional officers, medical officers of the correctional health centres and any other individual that could aid an inmate to escape, as opposed to the inmates themselves, to prevent them from aiding inmates from escaping lawful custody. None of the provisions make it an offence for an inmate to escape or attempt to escape from lawful custody. The provisions of this Act are against people that are or would be in the position to aid the escape or attempted escape of the inmates from lawful custody.

Criminal Code Act

The issue of jailbreak is not limited to Nigerians that have been convicted and sentenced for offences or lawfully held on allegation of any offence. It extends to aliens that are lawfully held in detention in Nigeria. This is why section 48 (a) of this Act provides that Any person who, with full knowledge and deliberate intention, provides support to an enemy of Nigeria who is a prisoner of war within the country, whether such prisoner is confined in a prison or any other place of detention, or is allowed to remain at large on parole, and thus facilitates or attempts to facilitate the prisoner's escape from their place of confinement, or enables their escape from Nigeria if they are at large on parole, is committing a felony which is punishable by life imprisonment.⁴⁴ Subsection (b) provides that where a person negligently or unlawfully causes the escape of such an alien or prisoner of war in Nigeria, the person would be found guilty of an offence and liable to two years imprisonment.⁴⁵ Section 134 (a) of this Act provides that anyone who uses force to rescue or attempt to rescue another person from lawful custody commits a grievous offence. If the person rescued is serving a death sentence, penal servitude, or life imprisonment, or has been charged with an offense punishable by death, penal servitude, or life imprisonment, the rescuer is guilty of a felony and faces a potential life sentence. In all other circumstances, the individual is nonetheless guilty of a felony punishable by up to seven years in jail.⁴⁶ This provision is similar to that of section 31 (2) of the Nigerian Correctional Service Act, 2019. The difference is that while section 134 (a) of the Criminal Code Act is directed at any individual that plays the role of a rescuer as provided in the section, section 31 (2) of the Nigerian Correctional Service Act, 2019 is directed at correctional officers in whose custody an inmate escaped from. Section 135 of this Act provides that any person who escapes from lawful custody while being held in detention commits an offence. If the individual is charged with or has been convicted of a felony or misdemeanor, the escape amounts to a felony which is punishable by up to seven years imprisonment, which may include whipping. In all other cases, the escape is deemed a misdemeanor punishable by up to two years imprisonment.⁴⁷ This section outrightly criminalizes the act of escaping or attempting to escape from lawful custody and provides for the additional sanction that would be served by the escapee when caught. Section 136 of this Act provides that any individual who assists a prisoner or inmate in escaping or attempting to escape from lawful custody, or who brings or causes anything or device to be brought into a prison or correctional centre with the intent to facilitate the escape of a prisoner, commits a serious offense. This act is classified as a felony and is subject to a penalty of up to seven years of imprisonment.⁴⁸ This provision of this Act recognizes that inmates would require external aid to break out of a holding facility, and therefore made it an offence to aid escape from lawful custody. Unlike the Nigerian Correctional Service Act, 2019 that has no provision expressly making it an offence for an inmate to escape from prison or attempt to do so, the Criminal Code Act contains such express provision. Given that the Nigerian Correctional Service Act, 2019 succeeds the Criminal Code Act, it should have contained the provision in addition to others.

Constitution of the Federal Republic of Nigeria 1999 (As Amended)

Section 33 (2) (b) of the Nigerian Constitution as amended provides that a person is not considered to have been unlawfully deprived of life under this section if the person dies as a result of the use of force that is both legally permissible and reasonably necessary under the circumstances to effect a lawful arrest or prevent the escape of a lawfully detained person.⁴⁹ In other words, if an escaped prisoner dies in an attempt to re-arrest him by another person and take him back into lawful custody upon the utilization of legal and reasonable force, the right to life of the escaped prisoner would not be deemed to have been unlawfully deprived of him. This could be interpreted to accommodate any person attempting to prevent the escape of a lawfully detained person, which could be a correctional officer, police officer, any officer from other security outfits in Nigeria such as the military, or a private person. No specific measurement was made out to state what constitutes legal and reasonable force. The circumstances surrounding the escape, attempt to recapture and how the death of the inmate occurred would be considered to determine if the use of force was legal/reasonable or unlawful/excessive.

⁴¹ *ibid*

⁴² *ibid*

⁴³ *ibid*

⁴⁴ Criminal Code Act CAP C38 Laws of the Federation of Nigeria 2004.

⁴⁵ *ibid*

⁴⁶ *ibid*

⁴⁷ *ibid*

⁴⁸ *ibid*

⁴⁹ Constitution of the Federal Republic of Nigeria, 1999 (as amended).

9. Conclusion and Recommendations

The frequency of jailbreaks in Nigeria highlights significant issues within the country's correctional system, threatening its integrity and effectiveness. This analysis examines systemic problems, legal frameworks, and broader impacts on public safety and the criminal justice system. Jailbreaks undermine both immediate security and public trust in the ability to rehabilitate convicts. Key concerns include outdated infrastructure, inadequate funding, and weak security measures in correctional facilities, which allow inmates to exploit vulnerabilities. Additionally, while severe consequences exist for jailbreaks, enforcement is often insufficient. The legal framework must evolve, introducing stricter penalties for corruption and collusion among prison staff and adapting to modern security needs. Improved collaboration between the prison system, law enforcement, and the judiciary is essential for preventing and addressing jailbreaks.

Nigeria's prison system needs to be completely redesigned in order to address inmate welfare, including judicial reforms to ease overcrowding and promote nonviolent criminals' alternative forms of punishment. Pretrial detainees should be housed in separate facilities to keep them safe from convicted prisoners. Enhancing nutritional guidelines, medical care, and personal hygiene is essential for the health and welfare of prisoners. This entails supplying wholesome meals, scheduling routine health examinations, and guaranteeing treatment accessibility. Strict accountability standards for prison staff must be maintained, and an anonymous reporting system for inmates to denounce abuse should be put in place. A comprehensive review and reform of the finance structure are necessary to address the Nigerian Correctional Service's financial difficulties. The main goal of investments should be infrastructure modernization, which includes creating regular maintenance schedules and improving security systems. Enhancing living circumstances, such as offering enough food, healthcare, and personal hygiene, might lessen the desperation and escape risk of prisoners.

The Nigerian Correctional Service needs to be significantly reformed in order to boost national security and win back public trust. Establishing an extensive and current inmate database is a crucial first step that would improve the overall effectiveness of the criminal justice system, expedite monitoring, and facilitate the prompt capture of fugitives. The large number of jailbreaks erodes public confidence, increases anxiety, and destabilizes the country. Efforts to maintain security and capture fugitives are further hampered by the lack of a comprehensive inmate database. In order to restore confidence and increase the efficiency of the criminal justice system, addressing these problems calls for a multipronged strategy that includes administrative changes, infrastructure improvements, and the use of cutting-edge tracking technologies.

Jailbreaks and escape attempts should be expressly made illegal by amending the Nigerian Correctional Service Act of 2019. The Act does not define jailbreaks or escape attempts as crimes, even though it addresses prison administration, inmate rights, and correctional techniques. Given the increasing number of jailbreaks, this legislative loophole presents a serious security danger. Making such acts unlawful by amending the Act will discourage prisoners from trying to violate prison security and give correctional personnel the explicit legal right to bring charges against those responsible. Additionally, as jailbreaks frequently result in an upsurge in criminal activity outside of prison, this adjustment would aid in maintaining public order.