

## WORLD FACTBOOK OF CRIMINAL JUSTICE SYSTEMS

### NIGERIA

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#### GENERAL OVERVIEW

##### 1. Political System.

Nigeria is a federation of thirty states. The Nigerian Constitutions of 1979 and 1991 provide for a National Assembly and a Senate at the federal level. At the state level, there exists a Senate and a House of Representatives. The Constitutions also provide for a President to be the Nigerian Head of State and for a State Governor in each of the 30 states. There are separate federal and state courts and one Supreme Court.

Every state is divided into counties generally called local government areas. Each local government area is administered by a chairman and a council of twenty members. The courts in each state are controlled by the state government. Each state government has a Chief Justice who also acts as the State Minister of Justice. There are essentially two types of Chief Justices: 1) the Chief Justice of the State Supreme Court and 2) the Chief Justice of the Nigerian Federation who functions as an Attorney General.

##### 2. Legal System.

Nigeria inherited the English common law tradition. However, since Nigeria has a tripartite judicial system, the common law tradition applies only at the English law (Colonial) based courts. The common law does not apply to the Islamic and customary law courts of

Nigeria.

Nigerian criminal procedure is based on an adversarial approach with the burden of proof most commonly placed on the accused. The Islamic (Muslim) courts and customary courts use an inquisitorial approach in their criminal procedures.

### 3. History of Criminal Justice System.

Nigeria was previously a British Colony. Therefore, the basis of the Nigerian criminal law is the English law. (Nigeria's capital territory of Nigeria-Lagos was annexed by the British in 1849. Later, other regions of Nigeria were declared protectorates and administered by the Royal Niger Company Chartered and Limited. In 1899 the charter granted to the Royal Niger Company Limited was revoked, and the British Government took over direct administration of Nigeria by 1900 (Niven, 1957; Burns, 1929).

In 1861, after the colonization of the Colony and Protectorate of Lagos, the Protectorate of Southern Nigeria, and the Protectorate of Northern Nigeria, the British Consuls and the Royal Niger Company, Ltd., set up a legislative council to make laws to control the masses and regulate business activities involving many European countries and Africans).

The British consuls and the Royal Niger Company Chartered and Limited (chartered by Britain to administer Nigeria until 1900) established Courts of Justice and an armed constabulary to enforce laws and regulations. From 1861 to 1874, ten different courts were created, with only four devoted to criminal matters: the Supreme Court/Police Magistrate Court, the Court of Civil and Criminal Justice, the West African Court of Appeal (WACA), and The Privy Council (Elias, 1963). The laws enacted by the colonial legislative council were based on the laws, values, and customs of the English people. When the British government took over direct administration of Nigeria in 1900 from the Royal Niger Company Chartered and Limited, it retained all of its courts, laws, and regulations.

The Criminal Code was originally introduced to the Protectorate of Northern Nigeria in 1904 by the Colonial Governor of the Northern Protectorate, Lord Lugard. It was modeled after a code that was introduced into the State of Queensland, Australia in 1899 by Britain. (The Queensland Criminal Code was based on a Criminal Code drafted in Jamaica by a British Criminal Law attorney, Sir James Fritzstephen, in 1878 (Arikpo, 1967; Oloyede, 1972)).

After the uniting of the Southern Protectorates in 1906

and the subsequent uniting of the Southern Protectorates with the Protectorate of Northern Nigeria in 1914, Lord Lugard made the Criminal Code of 1904 applicable to all the Protectorates in Nigeria (Elias, 1954, 1963, 1967; Nwabueze, 1963; Okonkwo and Naish, 1964; and Adewoye, 1977).

In 1959, the Criminal Code which was used throughout Nigeria did not apply to Northern Nigeria. Throughout the Colonial era, the courts in the Northern region of Nigeria had lacked professionally trained personnel in criminal law. In addition, the British judges were uncertain how to deal with the Emirs in regard to various offenses and punishment under the Islamic (Maliki) Law. (The Emir is the Head of a group of Moslem counties. The Emirs are the traditional rulers of the Moslem areas).

As a solution, a panel of jurists was set up to introduce a Penal Code that would take into account Moslem interests, values, and standards. Since Sudan was an Islamic State where the Muslim laws were similar to those of Northern Nigerian Moslems, the jurists modeled the Penal Code law after the Sudanese Penal Code (Nwabueze, 1963; Elias, 1967; Adewoye, 1977).

The Northern Nigerian Penal Code law applies to all persons living in Northern Nigeria. Occasionally a non-Moslem is brought before a Muslim Court (Alkali Court), where Muslim laws are applied. Although the defendant may not know the illegality of an act in the Emirate, he/she must still stand before the Muslim Court Judge (Karibi-Whyte, 1964). (An Emirate is a Moslem country ruled by an Emir).

The Northern Nigerian Penal Code, therefore, was introduced to account for the differences between Muslim and non-Muslim laws, making the region's laws applicable to everyone. The guiding principle under the Code's provisions was that since the majority of the people living in the region were Moslem, the Penal Code law should not be in conflict with the dictates of the Holy Koran (Elias, 1967).

While the Nigerian Criminal Code was applicable to the whole of Nigeria in 1916, most criminal cases were still governed by "Native Law and Custom." This created problems, especially in Northern Nigeria because the Maliki Law contained many rules which were not acceptable under English Law (Okonkwo and Naish, 1964). (The offense of homicide, punishable by death, includes any assault ending in death, regardless of intent. In effect, the crime of manslaughter under the Nigerian Criminal Code is prosecuted as murder under the Maliki Law (Okonkwo and Naish, 1964))

Due to the confusion occurring in the administration of dual systems of criminal laws--one by the British or Colonial courts which applied the Nigerian Criminal Code, and the other by the customary courts which applied Maliki Law, an attempt was made to abolish the customary law in 1933. However, the British administrators abandoned this idea, and instead introduced Section 10 of the Native Courts Ordinance which stated that the Native Courts could administer customary law provided that the punishment did not involve mutilation or torture and was "not repugnant to natural justice, equity, and good conscience" (Elias, 1963).

Today, Nigeria uses a tripartite system of criminal law and justice: the Criminal Code (based on English Common Law and legal practice); the Penal Code (based on Maliki Law and a Muslim system of law and justice); and Customary Law (based on the customs and traditions of the people). In Southern Nigeria, the native laws are informal, unwritten agreements. In Northern Nigeria, laws are written.

Nigeria achieved independence in 1960. Since then, both the Nigerian Criminal Code and the Northern Nigerian Penal Code have added many amendments to reflect the norms, values, and standards of the Nigerian people (Karibi-Whyte, 1964; Elias, 1972; Ebbe, 1985a). (One result of having the Nigerian Criminal Code based on the English Common Law tradition was the criminalization of some of the Nigerian customs. For example, Section 370 of the Nigerian Criminal Code prescribes a seven year prison sentence for any person who marries another while his/her marriage partner is still living. According to this section, "Bigamy is the contracting of a second marriage during the lifetime of one's "first" wife or husband. Section 35 of the Marriage Act declares such a second marriage as void, and there [are] penalty provisions in Section 47 and 48 of the Marriage Act (Elias, 1954, 1972; Ebbe, 1985a).

Such normative standards in Nigeria that were criminalized by the colonial administration have since been revoked. For example, in 1970, by decree, the bigamy law in Nigerian Criminal Law was declared null and void (Elias, 1972; Obilade, 1969; Ebbe, 1985a)).

## CRIME

### 1. Classification of Crimes.

\* Legal classification. Crimes in Nigeria are classified by the severity of the offense into

felonies (very serious) and misdemeanors (less serious). Examples of felonious offenses are armed robbery, arson, auto theft, burglary, child-stealing, counterfeiting, conspiracy, drug offenses, forgery, fraud, kidnapping, murder, rape, smuggling contraband, theft of an object of high value, and treason. All other offenses are considered misdemeanors.

The Nigerian police also classify crimes into offenses against persons, offenses against property, other offenses (crimes without victims), and offenses against local ordinances.

\* Age of criminal responsibility. Any person seventeen years or older is considered an adult. Persons 12 to 16 years-old are treated as juveniles while 7 to 11 year-olds are considered children. The offenses of both children and juveniles are handled at the juvenile courts. Juvenile courts are generally ad hoc and informally administered. They are presided over by the county magistrate, a layman and a laywoman (Ebbe, 1988).

\* Drug offenses. Drug offenses in Nigeria include the possession or selling of cocaine, heroin, and marijuana. Barbiturates and amphetamines are legal drugs which can be purchased as over-the-counter medicines.

## 2. Crime Statistics.

The crime statistics provided below are based on the number of crimes reported to the police (which includes crimes reported by citizens, crimes observed by citizens, and crimes observed by the police) and are compiled by the Nigerian Police Force. (Systematic record keeping of crime data in Nigeria is still very cumbersome for the Nigerian Police Force, although the NPF Headquarters is making some effort to improve. The amount of robbery and burglary recorded by the Nigerian police captures only about 30% of the number of robberies or burglaries actually committed because many of the crimes are not detected or reported. Additionally, over 60% of the crimes that should be kept in police records are disposed without being recorded at the informal, customary courts. These facts and biases in police crime records should be considered when analyzing Nigerian crime data)).

All crime rates are computed from the police reports, using Nigeria's 1991 population census report as its base (total population=88,569,226). Generally, the definitions of the crimes are similar to those of England (Annual Reports of the Nigerian Police

Force 1986-1989 and Nigerian Year Book 1986-1989).

\* Murder. In 1989, there were 928 cases of murder reported to the police, at a rate of 1.07 per 100,000 population. Attempts are not included. (The number and rate of reported murders per 100,000 population for previous years, are as follows: 984, rate=1.23 (1986); 849, rate=1.04 (1987); and 838, rate=1.00 (1988)).

\* Theft. In 1989, there were 69,454 cases of theft reported to the police, at a rate of 80.82 per 100,000 population. Attempts are not included. (The number and rate of reported thefts per 100,000 population for previous years are as follows: 68,322, rate=85.57 (1986); 69,767, rate=86.09 (1987); and 72,368, rate=86.73 (1988)).

\* Rape. In 1989, there were 1,032 cases of rape reported to the police, at a rate of 1.20 per 100,000 population. Attempts are not included. Date rape or the rape of a wife by her husband is not a crime. (The number and rate of reported rapes per 100,000 population for previous years are as follows: 1,238, rate=1.55 (1986); 1,116, rate=1.37 (1987); and 963, rate=1.15 (1988)).

\* Drug offenses. In 1989, there were 588 cases involving drug offenses reported to the police, at a rate of .68 per 100,000 population.

\* Crime regions. The Nigerian police annual reports have no records of crimes according to regions, states or cities. However, it is generally known in Nigeria that property crimes are perpetrated more in the Southern states than in the Northern states. This may be due to greater business activity in the South.

## VICTIMS

### 1. Groups Most Victimized by Crime.

The Nigerian police have no records of victimization in terms of ethnicity, gender, age or regions. However, from information gathered in prison reports, it appears that most crimes occur between offenders and victims of the same ethnicity. Generally, males are more likely to be victims and offenders than females (Ebbe, 1982 and 1985b). One study of prisoners found that 62% of the prisoners that were 30 years- old or younger had victimized persons older than themselves (Ebbe, 1982:122). (In a systematic sample of 450 inmates drawn from one maximum security prison

and three medium security prisons in Nigeria, 68% of the inmates were under 30 years-old at the time of the offense. Among inmates serving time for property and personal offenses, 62% had victimized persons in older age categories (Ebbe, 1982:122)).

## 2. Victims' Assistance Agencies.

Nigeria has no victims' assistance agencies or victim compensation programs.

## 3. Role of Victim in Prosecution and Sentencing.

Nigerian criminal procedure requires a victim who has observed a crime to serve as a crown witness during the trial. However, the victim does not play any part in the sentencing of the offender.

## 4. Victims' Rights Legislation.

Victims are not allowed to take the law into their own hands. However, under the self-defense statute, the victim is allowed to take extraordinary action against an offender if his/her life or dwelling is being seriously threatened. (The use of mob justice, which involves the victim and other citizens catching the offender, may fall under the self-defense statute. In rural areas, shaming the offender is a common method for dealing with offenders)).

# POLICE

## 1. Administration and Organization.

The Nigerian police organization follows the hierarchical British pattern. At the head of the Nigerian police force is the Inspector-General. Other ranks exist in the following order, from highest to lowest: Deputy Inspector-General, Assistant Inspector-General, Commissioner of Police, Deputy Commissioner of Police, Chief Superintendent of Police, Superintendent of Police, Deputy Superintendent of Police, Assistant Superintendent of Police, Chief Inspector, Inspector, Sub-Inspector, Cadet Sub-Inspector, Sergeant Major, Sergeant, Corporal, Constable, and Recruit. The ranks from the Inspector-General to the Assistant Superintendent are considered Senior Officers, while the lower ranks are considered Junior or Non-Commissioned officers. The Nigerian Police force is divided into five departments (A, B, C, D, and E), each performing specific

functions and each headed by a Commissioner, Deputy Commissioner, or Assistant Commissioner.

The Nigerian Police is a national and unified force. Its organization and administration are the responsibility of the federal government. A squadron of the force is stationed in each of the 30 states under the command of a Commissioner of Police. The Commissioner of Police is subject to the authority of the Inspector-General of Police. The Inspector-General has command over all of the police squadrons in Nigeria and the maintenance and security of public order and safety. The Inspector-General is accountable to the Minister of Internal Affairs and, ultimately, to the President of Nigeria. The Commissioner of Police in each state is similarly subject to the authority of that state's Governor.

The Independence Constitution and subsequent Constitutions have not authorized the establishment of local government police. Those previously established by the British in the Northern and Western states were disbanded during occupation by the military regime (1966-1979). Rather, the Commissioner of Police in each state administers the squads at provincial, county, and divisional levels. Daily and monthly reports of police operations are transmitted from the police units in the divisions and counties to provincial headquarters and then to state headquarters. These reports are then sent to the police headquarters in the national capital of Lagos.

An important branch of the Nigerian police force is the Criminal Investigation Department (CID). Most of the CID personnel in the 1960s had received their training from Britain's Scotland Yard. The CID of the Nigerian police force is the major unit for crime detection and prevention. Squads of CID agents exist in every state. The CID also has sub-units such as the anti-fraud squad, anti-burglary squad, and anti-narcotics squad.

The Nigerian Mobile Police Unit is a paramilitary branch of the Nigerian police force. Unit members operate under a strategic law enforcement system. They are well-trained in tracking down hardened criminals, such as highway robbers and international smugglers.

Two other major Nigerian police force auxiliaries are the Special Constabulary and the Traffic Warden Service. The Special Constabulary help the Nigerian police fight crime and assist with law and order maintenance. In 1975, the Traffic Warden Service was initiated in Lagos for traffic control duties. Today, many states have established similar units to aid the Nigerian police force in traffic control.

Central responsibilities of the Nigerian



police include the arrest, prosecution, and escorting of convicts to prison.

## 2. Resources.

\* Expenditures. At the time of this study, annual expenditure information was not available.

\* Number of police. The Nigerian police force was an all-male law enforcement agency until 1955, when women became eligible to join the force. Today, duties of female police officers mainly involve radio dispatch, traffic control, office duties, and investigating cases that involve women, juvenile delinquents, and non-violent criminal cases.

At the time of this writing, statistics on the ethnic and state composition of the Nigerian police force was not available.

## 3. Technology.

\* Availability of police automobiles. Information not available.

\* Electronic equipment. The Nigerian police force has a very small number of communication devices. The use of computers and radar devices are considered a luxury by the Nigeria government (Nigeria News Update, 1993).

\* Weapons. Information not available.

## 4. Training and Qualifications.

Police recruits undergo a six to nine month training session at one of the police colleges located in each of the four geographic regions of Nigeria (north, east, west, and midwest) and the national capital of Lagos. (Editor's note: In 1991, the capital of Nigeria was transferred to Abuja. Most criminal justice agencies originally located in Lagos have remained there.) Most recruits are expected to have a high school diploma in order to be admitted into the Recruit grade of the police force. However, some recruits have first school learning certificates (equivalent to an 8th Grade education in the U.S.) or a West African school certificate (equivalent to a high school diploma).

Police officer cadets are trained at the Nigerian Police Academy in Lagos. Some cadets are trained in England, the United States, India, and Pakistan. The length of training at the police academy ranges from one to three years, depending on the cadet's previous level of education. Persons with a university degree such as a Bachelor of Arts or Bachelor of Science spend less

than three years in training before they are commissioned Assistant Superintendent. Officers of the Nigerian police force are presently recruited among university graduates.

#### 5. Discretion.

\* Use of force. It is not unknown for police to use deadly force when attempting to arrest a suspect.

\* Stop/apprehend a suspect. The Nigerian police have wide discretion in the apprehension of offenders. The police operate via a static law enforcement system by which victims report crimes to the nearest police station (Tamumo, 1970; Okonkwo, 1966; Ebbe, 1982).

\* Decision to arrest. Police will arrest a suspect only when they have solid grounds to believe that the individual has committed a crime. While there are situations under the law in which the police have to obtain a warrant from a magistrate before arresting a suspect, the Nigerian police normally arrest without a warrant.

Cases brought to the Office of the Director of Public Prosecution (DPP) are considered to be very serious and usually involve a felony offense where the offender is caught in the act by the police, victim or bystanders. At this point, the DPP decides whether to prosecute the crime. If there are no witnesses to the offense, the police can give a warning and release the suspect, even when it seems clear that the individual committed the offense (Tamumo, 1970; Okonkwo, 1966; Ebbe, 1982).

\* Search and seizure. The police can search and seize property without a warrant (Tamumo, 1970; Okonkwo, 1966; Ebbe, 1982).

\* Confessions. Involuntary confessions are not officially condoned.

#### 6. Accountability.

General supervision of the organization and administration of the police force is conducted by a Police Council. The power of appointment, dismissal, and disciplinary control of police force members is vested in a Police Service Commission. The Commission consists of a chairman and two other members who must not be ministers or members of any legislative house of the civil services. However, the Commission does not fulfill the role of policing the police. There are no people or organizations charged with this

responsibility.

## PROSECUTORIAL AND JUDICIAL PROCESS

### 1. Rights of the Accused.

\* Rights of the accused at trial. There has been no jury trial in Nigeria since the decline of the colonial administration of justice. The accused is provided a public defender to protect him/her from self-incrimination (Aguda, 1974).

\* Assistance to the accused. When the accused is an indigent and incapable of providing his own defense attorney, the state will provide a public defender.

### 2. Procedures.

\* Preparatory procedures for bringing suspect to trial. After arrest, the highest ranking police officer at the police station thoroughly investigates the case. If the investigation report reveals that the suspect committed the offense, all case information is then transferred to the office of the Director of Public Prosecution (DPP). If the DPP finds inadequate evidence to charge the accused, the case can be dismissed. However, if there is enough evidence to bring charges against the accused, the DPP will prosecute the suspect before a magistrates court.

\* Official who conducts prosecution. Most criminal prosecutions are conducted by the police. The Director of Public Prosecutions and his department prosecutes the more serious cases, such as murder, armed robbery, narcotics, and drug trafficking (Aguda, 1974).

However, there are certain persons that can discourage the police or DPP from bringing charges against an offender. For instance, top officials or politicians can order or lobby the police or DPP to drop a case, even when it has already resulted in formal charges before the court.

\* Alternatives to trial. No plea bargaining exists in Nigeria. Minor criminal cases that require negotiated settlements are referred to the customary court by the presiding magistrate.

If an accused is brought before a magistrates court for questioning and, subsequently, offers an unsolicited guilty plea, the court will immediately refer the accused to a psychiatrist to determine whether he/she is mentally competent. (The defendant in a criminal trial may claim murder in self-defense or insanity as defenses. Intoxication cannot be used as a defense unless

the defendant was intoxicated under duress (Brett and McLean, 1963))

If the accused's mental capacity is found to be normal, the magistrate will impose a sentence according to law. There is no sentencing benefit (e.g. leniency) to pleading guilty.

Finally, the police officer investigating the case can take the following three actions, each of which would avoid a trial: 1) Dismiss the case because of insufficient evidence; 2) Warn and discharge the suspect on the grounds that: the suspect has no prior criminal record, the offense is a victimless crime, or the offender agrees to compensate the victim; and 3) refer the case to a juvenile court or discharge the accused if the suspect is a juvenile (less than 17 years-old).

\* Proportion of prosecuted cases going to trial. Information not available.

\* Pre-trial incarceration conditions. The investigating police officer can detain the suspect if there are grounds to do so. If the offender is denied bail, the court can require an offender to be remanded into custody, where the offender awaits trial in a medium or maximum security prison designed for this purpose. By law, magistrates can detain a suspect for up to 30 days. In practice, detainees may be held longer.

\* Bail procedure. A person charged with a misdemeanor is entitled to bail unless the DPP and the court have valid reasons why bail should be denied. The court has full discretion to grant bail in felony cases.

Bail can be granted by the court with or without sureties. That is, if it is clear that the offender will appear for trial and will not leave the area, bail can be granted regardless of whether a bail bondsman is involved. However, if a bondsman is retained and the offender fails to appear for trial, the bondsman is held liable to the court. The court can deny bail on the following grounds: a) the suspect refused arrest; b) the suspect has committed previous crimes; c) the suspect committed a separate crime while on bail; d) the suspect is arrested for murder, rape, armed robbery, drug smuggling, counterfeiting, or another heinous crime; e) the suspect poses a danger to the public; f) there is a need to protect the offender; or g) the suspect is an unruly juvenile.

\* Proportion of pre-trial offenders incarcerated. Approximately 25% of the prison inmate population are being held in prison while awaiting trial (Ebbe, 1982: 221-224).

## JUDICIAL SYSTEM

### 1. Administration.

There are two levels of courts in Nigeria: federal courts and state courts. All of the courts, except some Northern states' district courts, have criminal jurisdiction.

**Federal Courts.** The Federal Supreme Court, established under the 1960 Constitution of the Federation Order-in-Council, was revised by the Republican Constitution of 1963. While the 1963 Constitution had not ensured the independence of the Judiciary, the 1979 Constitution made the Supreme Court and its judges independent of the President and the legislature. The Supreme Court acts as the Final Court of Appeal and a Superior Court of Records. It is not a court of original jurisdiction.

The Federal High Court/Federal Court of Appeal is composed of the Chief Justice and, at least five other judges. The Federal High Court is a Superior Court of records. It hears cases where the federal government is a party against states or individuals. Appeals are brought to the Supreme Court. The Federal High Court may be held in any of the states, especially in cases where the parties live in the same state (e.g. an Assize Court). A case involving persons of different states may be filed in a Federal High Court in Lagos. Criminal offenses involving the violation of federal laws such as smuggling contraband, counterfeiting, or the possession of marijuana or narcotic drugs, are usually tried in a Federal High Court, although sometimes drug and currency offenses are tried by special tribunals.

**State Courts.** There is a variety of courts in the states. The State High Court is the highest court in each state, although some states have a Court of Appeal which sits above the High Court.

**State Courts of Appeal.** The Constitution empowers all of the states to establish a State Court of Appeal for the handling of appeal cases brought from a State High Court. In states that have established a Court of Appeal, decisions from the High Court must be brought to the Court of Appeal before they are taken to the Nigerian Supreme Court (Elias, 1967).

The Court of Appeal Edict of 1967 established a Court of Appeal in the Western states. The provisions of the Edict were given effect under Section 127(2) of the Constitution of the Federation by the Constitution Order of 1967. The Western states' Court of Appeal hears cases

deriving from the High Court of a Western state. It has jurisdiction on questions relating to the interpretation of the State Constitution (Elias, 1972).

The Sharia Court of Appeal was established in 1960 in the Northern states for the purpose of hearing appeals from customary courts where Moslem Personal Law was involved. Appeals for cases involving Moslem Personal Law are brought from an upper court to the Sharia Court of Appeal. Appeals from the decision of the Sharia Court of Appeal that concern questions of the interpretation of the Constitution of the Federation, or a state constitution, or questions involving the application of the provisions of the Constitution of the Federation relating to fundamental rights, are brought to the Nigerian Supreme Court (Constitution of the Federation, 1963).

State High Courts. The Court of Resolution of Northern Nigeria was established by the Court of Resolution Law, 1960. This court was established in 1960 for the purpose of resolving any conflict of jurisdiction between the State High Court and the Sharia Court of Appeal. The decision of the Court of Resolution is final; there is no appeal (Northern Region Law Report 94, 1960; Court of Resolution Law, 1963).

The Federal Constitution of 1954 empowered the Regional Legislatures to establish courts for their respective regions. It resulted in the regions establishing a High Court, Magistrates Courts, and Native or Customary Courts in 1955. When the regions were broken down into 30 states, every state was granted the power to establish its own courts in accordance with the Federal Constitution.

Each State's High Court is a Superior Court of Record having original and appellate jurisdiction. In the Eastern states that have abolished customary courts, the High Courts of those states have original jurisdiction in land cases and matters arising under customary law. (The abolition of customary courts in those two states resulted from the Nigerian Civil War which destroyed most of the court buildings. No federal aid has been provided for their reactivation).

There are different grades of Magistrates Courts from state to state, as well as different grades of magistrates. For instance, in the Northern states, the Customary Courts are known as Area Courts. There are four types of Area Courts: Upper Area Court, Area Court Grade I, Area Court Grade II, and Area Court Grade III. The Chief Justice of each Northern state establishes the

Area Courts. Appeals can be brought from an Area Court Grade I, II or III to the Upper Area Court that has jurisdiction in the geographic area where the Area Court is located. In cases involving Moslem Personal Law, appeals from Upper Area Court go to the Sharia Court of Appeal. For other cases, appeals from an Upper Area Court are brought to the State High Court.

In Bendel State, all Customary Courts are now of the same grade. Customary Courts are established by the Chief Justice subject to the approval of the State Governor. In the Western states, Customary Courts are graded as A, B, C, and D (Eliyas, 1972).

Positioned under the customary courts are informal courts of elders and councils of elders who handle minor criminal offenses in areas located far from formalized courts and police stations.

## 2. Special Courts.

Special Criminal Offense Tribunals. Some crimes are tried at special tribunals designed for handling specific offenses. These special tribunals are: The Armed Robbery and Firearms Tribunal (1970), The Currency Offenses Tribunal (1974), and The Illegal Drugs and Narcotics Tribunal (1986).

The Nigerian government originally set up the Special Criminal Offense Tribunals in order to prevent offenders from escaping conviction because of legal loopholes or corrupt criminal justice agents, including attorneys.

(At the end of the Nigerian Civil War, many hand-guns circulated throughout the country. This resulted in a high rate of armed robbery and firearms offenses. However, it was common for offenders to escape penalty because of deals made with the attorneys). Each one of the Special Criminal Offense Tribunals is composed of five to seven retired court judges, senior military officials, retired senior police officers, and retired senior civil servants. Most of these tribunal judges do not have law degrees. Today, the Tribunals are considered more effective in obtaining convictions than the regular criminal courts.

The defendant is allowed to have a defense attorney although there is no formal prosecutor present at these cases. Rather, at the trial, the defendant and defense attorney face a panel of unbiased judges. Witnesses may be called by the defendant. A conviction is rendered only when the evidence proves that the accused committed the offense beyond a reasonable doubt.

Juvenile Court. After World War II, the juvenile courts were introduced by Britain into the Western, Eastern, and Northern regions.

(The juvenile court in Nigeria is a product of British Colonial influence. Juvenile Courts did not exist in Nigeria until the 1940s. Before the end of World War II, the only juvenile court was located in the capital city of Lagos). The juvenile court was modeled after the British juvenile justice system. Today, the court is composed of a magistrate, a layman and a laywoman (Ebbe, 1988).

### 3. Judges.

\* Number of judges. The 1963 Constitution has provided for a Supreme Court presided over by the Chief Justice of Nigeria. It has also provided for at least five other judges to sit on the Federal Supreme Court. Presently, there are eight judges sitting on the Federal Supreme Court.

The Western states' Court of Appeals consists of 5 justices: four justices of appeal and one justice acting as the President of the court. The Sharia Court of Appeal (Moslem Personal Law) consists of a Grand Kadi and at least two other judges well versed in the Sharia.

The Court of Resolution for each Northern state consists of the Chief Justice of the state (who acts as the President of the Court), the Grand Kadi, one judge of the High Court nominated by the Chief Justice, and one judge of the Sharia Court nominated by the Grand Kadi.

Under the Constitutions of 1960, 1979, and 1991, the High Court of each state consists of the Chief Justice of the state and at least 6 other judges (at least 5 in Lagos) as prescribed by the legislature.

\* Appointments and qualifications. The 1979 Constitution requires appointments to the Supreme Court to get the approval of both Houses of the Legislature. The judges are appointed by the President of Nigeria. The judges must be certified lawyers who have served as judges at the federal or state court levels for a minimum of ten years (Kasumu, 1978).

All the judges of the Federal High Court/Federal Court of Appeals are appointed by the President of Nigeria with the approval of the Senate. Ten years of experience on the bench is required before a lawyer is appointed judge to this court.

The Chief Justice of the state High Court is appointed by the State Governor. The other judges are appointed in the same manner as the Chief Justice but the appointments have to be made in



accordance with the advice of the appropriate Judicial Service Commission. During the military regime (1966-1979), the Chief Justice of the Federal and each State High Court, as well as other court judges, were appointed by the Supreme Military Council after consultation with the Advisory Judicial Committee. During that time, the Nigerian Supreme Court was suspended and the Federal High Court was positioned as the highest court.

The judges for the Sharia Court of Appeal are appointed by the president after consultation with the Advisory Judicial Committee. The judges of all customary courts, including Sharia Courts, are all lay-judges with no formal legal training. The Public Service Commission of each state has the authority to appoint magistrates for the Magistrate Courts. The magistrates are all certified lawyers with at least five years of experience on the bench. The judges of the Area Courts in the Northern States are also appointed by the State's Public Service Commission.

In Bendel, the Chief Justice is empowered to appoint persons as presidents or members of a Customary Court upon the recommendation of the Advisory Judicial Committee (Elias, 1972).

With the abolition of the Judicial Service Commission, the Local Government Service Board is empowered to appoint, dismiss, and exercise disciplinary control over all members of Customary Courts. Previously, the Judicial Service Commission had been able to appoint the presidents of grade A and B Western state Customary Courts.

In Islamic courts, the Emirs and persons versed in Islamic law serve as judges in criminal cases which involve the violation of Islamic tradition. In customary courts, traditional chiefs serve as judges in misdemeanor offenses and some cases that involve more serious offenses (e.g. larceny, theft, aggravated assault).

## PENALTIES AND SENTENCING

### 1. Sentencing Process

\* Who determines the sentence? The judge determines the sentence.

\* Is there a special sentencing hearing? There is no pre-sentencing hearing. If the suspect is found guilty of the offense, the magistrate or a State High Court judge can sentence an offender to prison on the same day that the case is tried. Only in rare cases will the judge or magistrate postpone sentencing.

\* Which persons have input into the sentencing process? Psychiatrists and social workers may be involved in pre-trial investigations and are involved in administering the penalty. However, psychiatrists, social workers, and victims do not have any influence or role in the sentencing process.

## 2. Types of Penalties.

\* Range of penalties. Persons found guilty of misdemeanor offenses may be fined, warned, granted probation, given corporal punishment or ordered to perform community service. Persons found guilty of felony offenses may be imprisoned either in a maximum security or medium security prison depending on the gravity of the offense. Offenders convicted of less serious felony offenses are sent to either a minimum security prison or a labor camp. In addition, house-arrest may be imposed on political dissidents. As there is no parole system in Nigeria, life imprisonment without parole is a viable punishment.

The penalty for crimes brought to a Special Criminal Offense Tribunal is established by legislative decree. The judges exercise very little discretionary power in the sentencing for these crimes. For a person convicted of any of these crimes (e.g. armed robbery, firearms, currency offense, and treason), the penalty is death by a firing-squad. It was only in November 1992 that the Nigerian Head of State, Ibrahim Babangida changed the death penalty sentence into life imprisonment for any person convicted of narcotics drug smuggling or possession. (Persons convicted of narcotic drug smuggling can not use the absence of a prior criminal record as a mitigating circumstance. The sentence for this crime is always life imprisonment).

\* Death penalty. Nigeria uses the death penalty for murder, armed robbery, treason, and currency offenses. Capital punishment is carried out publicly with the use of a firing squad.

## PRISON

### 1. Description.

\* Number of prisons and type. There are maximum, medium, and minimum security prisons and some "open" prisons in many metropolitan cities of Nigeria. (Pre-colonial Nigeria did not employ prisons as penalties. Punishment took the form of fines, mutilation, castration, excommunication, lynching, and dedication to the gods, whereby the offender

became an untouchable. The British Imperial Government introduced the prison system in Lagos between 1861-1900. By 1960, there was a prison in every provincial headquarters in Nigeria; some District Headquarters established minimum security prisons). The largest prison complex in Nigeria, which has both medium and maximum security branches, is Kirikiri Prison, in Lagos (Igbinovia, 1984; Ebbe, 1982; Iwarimie-Jaja, 1989; Okediji and Okediji, 1968; Rotimi, 1982).

As of 1983, there were a total of 123 prisons, 2 borstal homes, and 244 county lock-ups in Nigeria. (Borstal homes are categorized as between a minimum and maximum security prison. Most offenders in these homes are young and have not committed very serious offenses). The only women's prison in Nigeria is located at Kirikiri, Lagos. It is a medium security prison and is located adjacent to the only maximum security prison in the country (Alemika, 1983; Igbinovia, 1984).

In response to the severe economic problems of Nigeria and the over-crowding in Nigerian prisons, community-based corrections exist for offenders convicted of trivial crimes. These community-based programs include labor camps, open prison incarceration, and community service.

\* Number of prison beds. In 1983, the Nigerian prisons had a total capacity for 26,000 inmates, but the actual inmate population was over 41,000. Thus, over-crowding is one of the major problems of the Nigerian prisons (Alemika, 1983; Kayode and Alemika, 1984; Igbinovia, 1984).

\* Average daily population/number of prisoners. In 1983, the Nigerian prison inmate population was over 62,153. (In 1977, the Nigerian prison inmate population of convicted offenders was 34,000 (Rotimi, 1982; Ebbe, 1982; Alemika, 1983; and Igbinovia, 1984)). Most of these convicted prisoners are incarcerated in county jails, minimum security prisons, or what used to be called provincial prisons (Rotimi, 1982; Ebbe, 1982; Alemika, 1983; and Igbinovia, 1984; Ebbe, 1982: 221-223). (In July 1980, there were 837 convicted inmates in Kirikiri maximum security prison, 832 convicts in Ikoyi medium security prison, and 510 convicts in Maiduguri medium security prison (Ebbe, 1982: 221-223)).

There are few female prisoners. In 1988, female prisoners in Nigeria numbered 298 (Ebbe, 1985b).

\* Number of annual admissions. Information not available.

\* Actual or estimated proportions of inmates incarcerated. There are no systematic records kept of Nigerian inmates by type of offense. However a study of 450 prisoners in four Nigerian prisons, including the only maximum security at Kirikiri, conducted in 1980, revealed the following:

Drug Crimes	1% inmates *
Violent Crimes	11% inmates **
Property Crimes	70% inmates ***
Other Crimes	18% inmates ****

(Figures are rounded to equal 100%, Ebbe, 1982)

\* The figure for drug crimes includes only the selling and possession of marijuana.

\*\* The figure for violent crimes includes assault, manslaughter, murder, rape, and child stealing.

\*\*\* The figure for property crimes includes stealing, robbery, stealing a domestic animal, motor theft, forgery, the buying and possession of stolen property, fraud, bribery and pickpocketing.

\*\*\*\* The figure for other crimes includes wandering (loitering), conspiracy, smuggling, reckless driving, unlawful possession of a dangerous weapon, attempt to commit a felony, adultery, criminal damage of government property, failure to produce a bailed offender on the day of the trial, escape from police custody, willfully living in Nigeria with an expired passport, and military offenses.

## 2. Administration.

\* Administration. Nigeria has a centralized system of prison administration. In effect, every prison in Nigeria is a federal prison. Similar to the Nigerian Police Force, the Nigerian prisons fall under the authority of the Ministry of Internal Affairs, a department which is reminiscent of the Home Office in England. At the top of the organizational hierarchy of the Nigerian prisons is the Director of Prisons. He is appointed by the President of Nigeria only with approval of the Public Service Commission. The overall chain of command in the Nigerian Prison Service, from the highest to the lowest, is the following: Director of Prisons, Deputy Director of Prisons, Assistant Director of Prisons, Chief Superintendent of Prisons, Superintendent of Prisons, Assistant Superintendent of Prisons, Cadet Superintendent of Prisons, Chief Warden Grade I, Chief Warden Grade II, Assistant Chief Warden, Sergeant, Corporal, and Warden (Nigerian

Prisons Service Annual Report, 1982 and 1989).

There is a Deputy Director of Prisons for each of the thirty states. The maximum security prison and every medium security prison are placed under the leadership of a Chief Superintendent of Prisons or a Superintendent of Prisons.

\* Prison guards. Information not available.

\* Training and qualifications. Prison wardens must hold at least a First School Learning Certificate prior to their training. The minimum qualification for entrance into the prison cadet school is a high school diploma. In addition, university graduates have begun to join the Nigerian prisons service.

\* Expenditure on the prison system. The annual expenditure of the Nigerian prison service was not available at the time of this writing. However, the salaries of the prison officials are among the lowest in the Nigerian civil service.

### 3. Prison Conditions.

\* Remissions. Nigeria has no parole system. Persons convicted of political crimes and inmates serving a life sentence can be granted a pardon by the Nigerian President. Inmates can also gain time off for good behavior or lose time for bad conduct.

\* Work/education. Inmates in all prisons are allowed to work on community programs or projects of the Nigerian Ministry of Works. They can also attend classes to obtain a primary school or high school diploma. Some inmates are allowed to participate in correspondence programs with schools in Nigeria and Great Britain in order to obtain an ordinary or advanced General Certificate of Education. Prisons do not have organized university degree programs.

\* Amenities/privileges. All prisons have visiting days. Only minimum security and open prisons have weekend leave programs. Vocational education is considered central to offender rehabilitation in maximum and medium security prisons. Group therapy and medical care is available to all prisoners.

### EXTRADITION AND TREATIES

\* Extradition. The countries of the Economic Community of West African States (ECOWAS), of which Nigeria is a member, have a reciprocal

extradition agreement. This agreement allows citizens of member states to move about within the Community without the need for visas.

\* Exchange of prisoners. All ECOWAS countries can exchange or transfer prisoners if the situation warrants such a settlement.

\* Specified conditions. Information not available.

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